Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Customs Court

Vol. 13 February 7, 1979 No. 6

This issue contains

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

The abstracts, rulings, and notices which are issued weekly by the U.S. Customs Service are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Logistics Management Division, Washington, D.C. 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

(TD–79–27)

Foreign Currencies—Daily Rates for Countries not on Quarterly List

Rates of exchange based on rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, People's Republic of China yuan, Philippines peso, Singapore dollar, Thailand baht (tical)

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to part 159, subpart C, Customs Regulations (19 CFR 159, subpart C).

People's Republic of China yuan:	
January 8–11, 1979	$0.630597
January 12, 1979	.628733
Hong Kong dollar:	
January 8, 1979	$0.2109
January 9, 1979	.2110
January 10, 1979	.2106
January 11, 1979	.210525
January 12, 1979	.2103
Iran rial:	
January 8–10, 1979	$0.0126
January 11–12, 1979	NA
Philippines peso:	
January 8–12, 1979	$0.1365
Singapore dollar:	
January 8, 1979	$0.4610
January 9, 1979	.4606
January 10, 1979	.4602
January 11–12, 1979	.4603
Thailand baht (tical):	
January 8–12, 1979	$0.0488

(LIQ-3-O:D:E)
Date: January 19, 1979.

BEN L. IRVIN,
Acting Director,
Duty Assessment Division.

(T.D. 79-28)

Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of manmade fiber textile products manufactured or produced in Romania

There is published below a directive of November 1, 1978, received by the Commissioner of Customs from the acting chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of manmade fiber textile products in certain categories manufactured or produced in Romania. This directive amends, but does not cancel, that committee's directive of May 19, 1978 (T.D. 78-246).

This directive was published in the Federal Register on November 3, 1978 (43 F.R. 51444), by the committee.

(QUO-2-1)
January 23, 1979.

WILLIAM D. SLYNE
(For Ben L. Irvin, Acting
Director, Duty Assessment Division).

U. S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C. 20230, November 1, 1978.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 30, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the pro-

visions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on November 3, 1978, the 12-month level of restraint established in the directive of May 19, 1978, for category 643/644 (pt.) to the following:

Category	*Amended 12 month level of restraint* [1]
643/644 [2]	20,857 dozen

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of manmade fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

(T.D. 79–29)

Cotton Textile Products—Restriction on Entry

Restriction on entry of cotton textile products manufactured or produced in Brazil

There is published below a directive of October 10, 1978, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton textile products in categories 339 manufactured or produced in Brazil. This directive amends, but does not cancel, that committee's directive of July 7, 1978 (T.D. 78–269).

This directive was published in the Federal Register on October 13, 1978 (43 F.R. 47235), by the committee.

(QUO–2–1)

January 23, 1979.

WILLIAM D. SLYNE
(For Ben L. Irvin, Acting
Director, Duty Assessment Division).

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[1] The amended level of restraint has not been adjusted to account for any entries after Dec. 31, 1977.

[2] In category 643/644, all TSUSA numbers except TSUSA 380.0420, 380.8145, 380.8148, 382.0447, 382.7866, and 382.7868.

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C. 20230, October 10, 1978.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On July 7, 1978, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the 12-month period beginning on April 1, 1978, and extending through March 31, 1979, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in Brazil, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 5 and 8 of the Bilateral Cotton Textile Agreement of April 22, 1976, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 10, 1978, to amend the 12-month level of restraint established for cotton textile products in category 339 to 250,573 dozen.[2]

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of Apr. 22, 1976, between the Governments of the United States and the Federative Republic of Brazil, as amended, which provides, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by specified percentages: (2) these levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries after Mar. 31, 1978.

provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

(T.D. 79-30)

Cotton, Wool, and Manmade Fiber Textile Products—Restriction on Entry

Restriction on entry of cotton, wool, and manmade fiber textile products manufactured or produced in Korea

There are published below directives of October 16 and November 2, 1978, received by the Commissioner of Customs from the chairman, Committee for the Implementation of Textile Agreements, concerning restriction on entry of cotton, wool, and manmade fiber textile products in certain categories manufactured or produced in Korea. These directives amend, but do not cancel, that committee's directive of December 27, 1977 (T.D. 78-57).

These directives were published in the Federal Register on October 19, 1978 (43 F.R. 48679) and November 7, 1978 (43 F.R. 51830), respectively, by the committee.

(QUO-2-1)

January 23, 1979.

WILLIAM D. SLYNE
(For Ben L. Irvin, Acting
Director, Duty Assessment Division).

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C. 20230, November 2, 1978.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On December 27, 1977, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse

for consumption during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978, of cotton, wool, and manmade fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 7, 1978, the 12-month levels of restraint established for the following categories in the directive of December 27, 1977, to the amounts indicated:

Category	*Adjusted 12-month level of restraint*[2]
333/334/335	86,018 dozen of which not more than 49,368 dozen shall be in category 333/334 and not more than 49,759 dozen shall be in category 335
433/434	18,084 dozen of which not more than 13,162 dozen shall be in category 433 and not more than 6,739 dozen shall be in category 434
443	29,232 dozen
633/634/635	1,320,288 dozen of which not more than 171,314 dozen shall be in cat egory 633; not more than 777,733 dozen shall be in category 634; and not more than 574,940 dozen shall be in category 635

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of Dec. 23, 1977, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 pct of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The levels of restraint have not been adjusted to account for any imports after Dec. 31, 1977.

Category	*Adjusted 12-month level of restraint* [2]	
638/639	5,241,254	dozen
641	1,000,367	dozen
643	58,621	dozen

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and manmade fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. DEPARTMENT OF COMMERCE,
THE ASSISTANT SECRETARY FOR INDUSTRY AND TRADE,
Washington, D.C. 20230, October 16, 1978.

Committee for the Implementation of Textile Agreements

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: On December 27, 1977, the chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the 12-month period beginning on January 1, 1978, and extending through December 31, 1978, of cotton, wool, and manmade fiber textile products in certain specified categories, produced or manufactured in the Republic of Korea, in excess of designated levels of restraint. The chairman further advised you that the levels of restraint are subject to adjustment. [1]

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[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of Dec. 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, which provide, in part, that (1) Within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 pct of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to paragraphs 8 and 9 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed effective on October 16, 1978, to amend the 12-month levels of restraint established for the cotton, wool, and manmade fiber textile products in the following categories to the indicated amounts:

Category	*Amended 12-month level of restraint* [2]
333/334/335	87,388 dozen of which not more than 49,724 dozen shall be in category 333/334 and not more than 50,773 dozen shall be in category 335
340	154,248 dozen
347/348	229,943 dozen of which not more than 162,373 dozen shall be in category 347 and not more than 125,056 dozen shall be in category 348
433/434	18,169 dozen of which not more than 13,211 dozen shall be in category 433 and not more than 6,775 dozen shall be in category 434
438	48,981 dozen
440	220,299 dozen
443	29,949 dozen
444	4,252 dozen
445/446	54,877 dozen
447	87,721 dozen
633/634/635	1,357,978 dozen of which not more than 173,575 dozen shall be in category 633; not more than 799,593 dozen shall be in category 634; and not more than 588,508 dozen shall be in category 635

[2] The levels of restraint have not been adjusted to reflect any imports after Dec. 31, 1977.

Category	*Adjusted 12-month level of restraint* [2]	
638/639	5,458,354	dozen
640 [3]	4,405,465	dozen
640 [4]	1,630,069	dozen
641	1,014,273	dozen
643	61,128	dozen
645/646	3,209,054	dozen
647	981,072	dozen

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and manmade textile products from the Republic of Korea have been determined the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ROBERT E. SHEPHERD,

Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

(T.D. 79–31)

Vessel Manifests—Customs Regulations Amended

Section 4.7a, Customs Regulations, relating to reporting requirements for a container with cargo covered by multiple bills of lading, amended

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by establishing a simplified alternative for reporting bill of lading numbers covering containerized cargo. Presently, (1) all bills of lading for inward foreign cargo in a particular container must be listed in numerical sequence, (2) the number of the container which contains the cargo covered by that bill of lading and the container seal number must be

[2] In category 640, only TSUSA Nos. 380.0455 and 380.8435.

[4] In category 640, all TSUSA numbers except those listed in footnote 3.

listed opposite the bill of lading number, and (3) the number of any other bill of lading for cargo in that container also must be listed immediately under the container number. As a result, bill of lading numbers for containers covered by multiple bills of lading must be listed more than once. The amendment provides a simplified alternative for listing bill of lading numbers only once on a separate container list and thereby eliminates multiple listings of the same number which are burdensome to carriers and of no benefit to Customs.

EFFECTIVE DATE: Jan. 29, 1979.

FOR FURTHER INFORMATION CONTACT: John A. Mathis, Carriers, Drawback, and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202–566–5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

New cargo declaration forms for use as part of the manifest required in connection with the arrival and departure of vessels, and procedures for the use of those forms, were established by T.D. 77–255, published in the Federal Register on October 25, 1977 (42 F.R. 56317), which amended part 4, Customs Regulations (19 CFR pt. 4). The forms involved, the Cargo Declaration, Customs form 1302, and the Cargo Declaration Outward With Commercial Forms, Customs form 1305, replaced the former Inward Foreign Manifest, Customs form 7527–A, and the Outward Foreign Manifest, Customs form 1374.

T.D. 77–255 provided for the use of the new forms any time after October 25, 1977, and for their mandatory use as of September 1, 1978. However, a number of U.S. ocean carriers advised Customs that mandatory use as of September 1, 1978, would impose a hardship. Accordingly, by a notice published in the Federal Register on August 18, 1978 (43 F.R. 36621), the effective date for mandatory use was delayed until January 1, 1979.

Section 4.7a(c)(2), Customs Regulations (19 CFR 4.7a(c)(2)), as amended by T.D. 77–255, provides (1) that all bills of lading for inward foreign cargo shipped in containers shall be listed in numerical sequence in the column headed "B/L Nr." on Customs form 1302, (2) that the number of the container which contains the cargo covered by that bill of lading and the container seal number shall be listed in column No. 6, opposite the bill of lading number, and (3) that the number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. Therefore, for containers with merchandise, covered by more than one bill of lading number, the same bill of lading numbers must be listed more than once on Customs form 1302.

Because multiple listings of the same bill of lading number impose a burden on carriers and are of no benefit to Customs, it has been decided to provide a simplified alternative that will eliminate the need for reporting bill of lading numbers more than once.

ALTERNATIVE PROCEDURE

As an alternative to the procedure provided in section 4.7a(c)(2), Customs Regulations, a separate container list made on a Cargo Declaration form or on a separate sheet attached to the Cargo Declaration, may be submitted.

If this procedure is used, container numbers shall be listed in alphanumeric sequence by port of discharge in column No. 6 of Customs form 1302, or on the separate sheet. Each bill of lading number covering cargo in that container, identifying the port of lading, shall be listed in the column headed "B/L Nr." on Customs form 1302 opposite the container number, or either opposite or under the container number, if a separate sheet is used. The container list will not be required as part of the vessel's traveling manifest, but need be submitted only at each port of discharge.

The procedures set out in section 4.7(a)(c)(2) (i) and (ii), requiring the listing of bill of lading numbers opposite or under the numbers of the containers, are for the benefit of the importing public and Customs and are designed to enable Customs officers to expedite the clearance of containerized merchandise. Customs will not consider clerical errors in the listing of the bill of lading or container numbers under these provisions as manifest irregularities requiring penalty action.

EDITORIAL CHANGES

This document also makes several editorial changes in section 4.7a, Customs Regulations.

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment imposes no duty or burden on the public but merely relaxes a present requirement by providing an alternative reporting procedure, notice and public procedure are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Mark Jenkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

Sections 4.7a(c) (1) and (2), Customs Regulations (19 CFR 4.7a(c) (1) and (2)), are amended to read as follows:

4.7a Inward manifest; information required; alternative forms.

* * * * * * *

(c) *Cargo Declaration.*

(1) The Cargo Declaration, Customs form 1302, shall list all the inward foreign cargo on board regardless of the port of discharge. The block designated "Arrival" at the top of the form shall be checked. The cargo described in column Nos. 6 and 7, and either column No. 8 or 9, shall refer to the respective bills of lading. Either column No. 8 or column No. 9 shall be used, as appropriate. The gross weight in column No. 8 shall be expressed in either pounds or kilograms. The measurement in column No. 9 shall be expressed according to the unit of measure specified in the Tariff Schedules of the United States (19 U.S.C. 1202).

(2)(i) When inward foreign cargo is being shipped by container, each bill of lading shall be listed in the column headed "B/L Nr." in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of the container seal shall be listed in column No. 6 opposite the bill of lading number. The number of any other bill of lading for cargo in that container also shall be listed in column No. 6 immediately under the container and seal numbers. A description of the cargo shall be set forth in column No. 7 only if the covering bill of lading is listed in the column headed "B/L Nr."

(ii) As an alternative to the procedure described in subparagraph (i), a separate list of the bills of lading covering each container on the vessel may be submitted on Customs form 1302 or on a separate sheet. If this procedure is used—

(A) Each container number shall be listed in alphanumeric sequence by port of discharge in column No. 6 of Customs form 1302, or on the separate sheet; and

(B) The number of each bill of lading covering cargo in a particular container, identifying the port of lading, shall be listed opposite the number of the container with that cargo in the column headed "B/L Nr." if Customs form 1302 is used, or either opposite or under the number of the container if a separate sheet is used.

* * * * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

R. E. CHASEN,
Commissioner of Customs.

Approved: January 11, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[Published in the Federal Register, Jan. 29, 1979 (44 F.R. 5649)]

(T.D. 79-32)

Vessels in Foreign and Domestic Trades; Air Commerce Regulations—Customs Regulations Amended

Sections 4.71 and 6.8, Customs Regulations, pertaining to the exportation of livestock by aircraft and vessels, amended

TITLE 19—CUSTOMS DUTIES

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 6—AIR COMMERCE REGULATIONS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to require that an aircraft commander or other authorized person furnish Customs with an export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, at the time of departure from the United States of any aircraft carrying specified livestock for export. The purpose of this requirement is to prevent diseased livestock from being exported from the United States by air. The document also makes minor conforming changes to a similar provision of the Customs Regulations relating to the exportation of specified livestock by vessels.

EFFECTIVE DATE: Feb. 28, 1979.

FOR FURTHER INFORMATION CONTACT: Leonard Rosenberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C., 20229; 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 4.71, Customs Regulations (19 CFR 4.71), requires the master of a vessel which is exporting horses, mules, asses, cattle, sheep, swine, or goats to furnish Customs with a notice of inspection by the Animal and Plant Health Inspection Service, Department of Agriculture, to insure that no diseased animals are exported.

However, there is no similar provision in part 6, Customs Regulations, requiring an aircraft commander or other authorized person to furnish Customs an export inspection certificate before departure of an aircraft carrying these animals. The Department of Agriculture informed Customs of several instances when livestock subject to export health inspection and certification were exported by aircraft without documentation.

Therefore, a notice was published in the Federal Register on June 1, 1978 (43 F.R. 23731), proposing that section 6.8(a), Customs Regulations, be amended to require that an aircraft commander or other authorized person furnish Customs with an export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, before departure of an aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. The notice also proposed to amend section 4.71 to conform to an organizaticnal change within the Department of Agriculture and to a change of title in its required documentation.

DISCUSSION OF COMMENTS

Three comments were received in response to the notice, all of which strongly supported the proposal.

One commenter, the representative of a large dairy cattle breed registry organization, agreed that air transportation as well as surface transportation should be covered by health provisions applicable to exported animals.

The other commenters, representatives of the Department of Agriculture, pointed out that the proposed rule is an essential control measure which would avoid damage to the U.S. export market by preventing the exportation of uninspected livestock by aircraft. Such damage would seriously impair the U.S. balance of payments, which agriculture marketing abroad is now reducing.

AMENDMENT TO THE REGULATIONS

After consideration of the comments received, Customs has decided that the proposed amendments should be adopted without change, as set forth below.

DRAFTING INFORMATION

The principal author of this document was Mark Jenkins, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: January 8, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[Published in the Federal Register, Jan. 29, 1979 (44 F.R. 5650)]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Section 4.71, Customs Regulations (19 CFR 4.71), is amended to read as follows:

§ 4.71 Inspection of livestock.

A proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture, shall be filed before the clearance of a vessel carrying horses, mules, asses, cattle, sheep, swine, or goats (9 CFR pt. 91).

PART 6—AIR COMMERCE REGULATIONS

Section 6.8(a), Customs Regulations (19 CFR 6.8(a)), is amended by inserting a new sentence between the first and second sentences to read as follows:

§ 6.8 Documents for clearance, or for certain departures.

(a) * * * The aircraft commander or authorized person also shall deliver a proper export inspection certificate issued by the Veterinary Services, Animal and Plant Health Inspection Service, Department of Agriculture (9 CFR pt. 91), to the Customs officer in charge at the time of departure of any aircraft carrying horses, mules, asses, cattle, sheep, swine, or goats. * * *

(R.S. 251, as amended (19 U.S.C. 66), secs. 12, 13, 14, 34 Stat. 1263, as amended (21 U.S.C. 612, 613, 614), secs. 624, 644, 46 Stat. 759, 761, as amended (19 U.S.C. 1624, 1644), sec. 1109, 72 Stat. 799, as amended (49 U.S.C. 1509).)

285-732—79——2

Customs Service Decisions

The following are decisions made by the U.S. Customs Service where the issues involved are of sufficient interest or importance to warrant publication in the CUSTOMS BULLETIN.

Dated: January 17, 1979.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

(C.S.D. 79-8)

Generalized System of Preferences: Inclusion of Value of Assist in Determining Costs Attributable to Beneficiary Developing Country; Amortization of Assists

Date: June 24, 1976
File: R:CV:V RG
540971

This is in reference to your correspondence of January 7, 1976, regarding the treatment of certain "assists" under the generalized system of preferences. Your question concerns dies and molds which are produced in a beneficiary developing country and provided to the manufacturer free of charge by the importer.

Your first question is, assuming that such an "assist" constitutes a "direct cost of processing" within the meaning of section 10.178(a)(2) of the Customs Regulations, may its value be included in calculating the costs attributable to the beneficiary developing country under section 10.176(a) of the Customs Regulations. It is our opinion that such assists can be included in determining whether the 35-percent requirement has been met.

Your second question concerns the manner in which such assists may be amortized. The answer to this question depends upon the nature of the assist. If the assist is such that it may be used only in the manufacture or assembly of the article under consideration, for example, tools, dies, molds, and special-purpose machinery capable of producing only a specific product, then the entire value of the assist must be allocated over the articles in question. When the importer establishes

that a definite number of units has been contracted for and furnishes reliable data in support of his claim, proration of the entire value of the assist may be made over the number of units contracted for. If the record establishes that other units have been produced over and above the instant contract, these may also be taken into account. If there is no evidence or claim of the number of units contracted for, or if the planned production is uncertain, proration may be made over the number of units actually produced as of the date of exportation of the shipment undergoing appraisement. In the absence of any fact supporting one of the other methods, proration may be made over the number of units in the shipment undergoing appraisement.

An assist may be of the type which is capable of use in the manufacture or assembly of two or more kinds of articles. These type of assists include, but are not limited to, general-purpose machinery, such as lathes, sewing machines, and drill presses. It is our opinion, that such assists may be amortized in any manner consistent with generally accepted accounting principles.

In your third and final question you query as to whether an importer may choose to amortize the same assist differently for normal valuation purposes and the generalized system of preferences. It is our opinion that he cannot. Whatever method of amortization is used must be applied consistently for normal valuation purposes and for the generalized system of preferences.

This decision is being circulated to all Customs officers.

(C.S.D. 79–9)

Generalized System of Preferences: Applicability of GSP to Sets of Tools or Utensils Classifiable Under Item 651.75, TSUS

Date: October 7, 1976
File: CLA–2:R:CV:S
044310 MH

This is in response to your letter of Feburary 4, 1976, in which you inquire as to the applicability of the generalized system of preferences (GSP) to sets classifiable under item 651.75, Tariff Schedules of the United States (TSUS).

Item 651.75 provides for sets (except sets specially provided for) which include two or more of the tools, knives, forks, spoons, or other articles provided for in schedule 6, part 3, subpart E, TSUS.

The rate of duty for item 651.75 sets is the rate of duty applicable to that article in the set subject to the highest rate of duty.

Item 651.75, TSUS, was not designated by the President to be an eligible article for GSP purposes. However, you ask if GSP may be used in the determination of the highest rate of duty of the component articles in the set. Subject to compliance with the requirements for GSP eligibility, GSP may be used to determine the rate of duty of the component articles of the set. A set consisting entirely of articles which individually qualify for GSP treatment would be entitled to free entry. The entry of the set per se would not be made under GSP, but the rate of duty of the set may be reduced by virtue of a GSP determination of the rate of duty of individual component articles.

For example, a set consisting of the following GSP-designated articles could be entitled to free entry provided that the requirements of GSP eligibility are met for each component article.

Article	TSUS item No.	Rate of duty
Other pliers	648.85	1.6¢ each plus 10 pct ad valorem.
Wrenches	648.97	11 pct ad valorem.
Saws	649.11	3.5 pct ad valorem.
Hammers	651.21	11 pct ad valorem.
Screwdrivers	651.37	11 pct ad valorem.

If the hammer in the above set did not qualify for free entry under GSP while all other components did so qualify, then the highest rate of duty in the set would be that of the hammer (11 pct ad valorem). Hence, the set would be dutiable at the rate of 11 pct ad valorem.

A similar result would come about if an article not designated for GSP eligibility were included in the set. For example, if a pair of slip-joint pliers classifiable under item 648.81, TSUS, and dutiable at the rate of 20 percent ad valorem is included in the set, the rate of duty for the set would be that of the slip-joint pliers since item 648.81, TSUS, is not designated as an article eligible for GSP treatment.

(C.S.D. 79–10)

Antidumping: Availability of Nonconfidential Summaries of Confidential Submissions

Date: August 2, 1977
File: R:CV:V KT
551422

This is in reference to your letter of June 13, 1977, concerning your requests for nonconfidential summaries of cost of production and other

master list data relating to appraisements made pursuant to three dumping findings: Bicycle speedometers from Japan (T.D. 72–322), clear plate and float glass from Japan (T.D. 71–130), and clear sheet glass from Japan (T.D. 71–131).

In your letter you take the position that the petitioner in an antidumping case maintains a continuing interest, both legal and real, in appraisements made by the Customs Service pursuant to a finding of dumping. On this basis, you urge that you are entitled to nonconfidential summaries of all confidential information submitted to Customs for purposes of appraising imported merchandise under the Antidumping Act. We have also received submissions from opposing counsel contending, in essence, that once an affirmative dumping finding is issued, the petitioner thereafter has no rights or interests in the enforcement of the finding other than those contained in 19 U.S.C. 1516. We disagree with both positions.

In our opinion the crux of this matter involves our interpretation of which stage or stages in the development and enforcement of a dumping finding are subject to the disclosure provisions of sections 153.21–153.23 of the Customs Regulations. There is no question as to the applicability of the disclosure provisions to the fair-value stage of a dumping case. At issue is the applicability of the disclosure provisions to: (1) The master list or appraisement stage subsequent to the issuance of a dumping finding, and (2) that stage initiated by the submission of an application to modify or revoke a dumping finding.

We have considered all the submissions in light of the purpose and intent of the Antidumping Act and our policies regarding its administration and it is our conclusion that the disclosure provisions of part 153 of the Customs Regulations generally do not apply to master list information submitted subsequent to a dumping finding. The petitioner's primary interest in a dumping case relates to the fair-value stage which may result in a finding of dumping. Once the Secretary makes a finding of dumping, it is encumbent upon the U.S. Customs Service to gather information and to assess dumping duties pursuant to the finding. As to this appraisement process the petitioner has no more "oversight authority" than an American manufacturer would have with regard to a Customs appraisement of foreign merchandise under the U.S.-valuation laws. Accordingly, with regard to a strict master list situation, the petitioner's right to information would generally be limited to information it may obtain pursuant to 19 U.S.C. 1516, the Freedom of Information Act, and ultimately, any applicable discovery procedures in the U.S. courts.

The stage of a dumping case resulting from the submission of an application to modify or revoke a dumping findings presents a different situation. Such an application is directed at the dumping finding

itself, in which the petitioner maintains an interest, both legal and real. As in determinations made during the intial fair-value stage, the decisions as to the merits of the application to modify or revoke a dumping finding rests with the Secretary pursuant to section 153.44(c) of the Customs Regulations. In addition, upon publication of a tentative notice to modify or revoke, interested persons are given the opportunity to present views and section 153.44(c) mandates that the notice will include all the elements required under section 153.39 of the regulations Section 153.39 provides in pertinent part that:

> Whenever the Secretary makes any tentative or final determination * * * pursuant to the provisions of this subpart, he shall include in the notice * * *
>
> (e) A complete statement of findings and conclusions and the reasons or bases therefor, on all the material issues of fact or law (consistent with requirements of confidentiality under subpart B of this part).

Consistent with the inference in the above-cited language and the intent of the Antidumping Act, it is our opinion that all information contained in, and forming the basis of, an application for modification or revocation of a dumping finding is subject to the disclosure provisions of sections 153.21–153.23. In addition, all information presented with regard to, or supporting, a tentative or final notice to modify or revoke a dumping finding would likewise be subject to the disclosure provisions of part 153. It is understood that because section 153.44(a) of the regulations requires that an application to modify or revoke contain information demonstrating that sales at less than fair value have terminated for a substantial period of time (at least 2 years), such applicable master list information is subject to the disclosure provisions.

In the present cases involving clear plate and float glass from Japan (T.D. 71–130) and clear sheet glass from Japan (T.D. 71–131), applications have been received requesting modification or revocation and in each case the Secretary's delegate has published a notice of tentative determination to modify or revoke the respective dumping finding. In accordance with the views expressed herein, the requesting party is entitled to nonconfidential summaries of all confidential material, including master list submissions, which is contained in or forms the basis of the applications and tentative determinations to modify or revoke.

Regarding the case involving bicycle speedometers from Japan (T.D. 73–322), the confidential information for which summaries are requested concerns cost of production data relating to U.S. sales. This information is not contained in, nor does it form a part of, an

application to modify or revoke the dumping finding. Accordingly, the request for confidential summaries of this information is denied.

(C.S.D. 79–11)

Duty Assessment: Interpretation of the Phrase "Per Dozen Pieces" in Subpart C, Part 2, Schedule 5, TSUS

Date: March 8, 1978
File: CLA–2:R:CV:MSP
054610 TL

CHIEF, CUSTOMS INFORMATION EXCHANGE,
U.S. Customs Service,
New York, N.Y. 10048

DEAR SIR: Customs form 6431, prepared at your port, dated April 13, 1976, concerns a difference in the way in which the phrase "per dozen pieces" is interpreted to assess duty under the provisions of subpart C, part 2, schedule 5, Tariff Schedules of the United States (TSUS). The involved merchandise is described as a C2966 earthen hanging planter and is covered by entry No. CE127210, dated February 19, 1976. It is not listed on C.I.E. N–69/77 or any other difference list we are aware of.

This merchandise consists of a bowl which is suspended by three cords, each of which is fastened through one of three holes equidistant around the perimeter of the bowl. These three strings are tied together approximately 18 inches from the top of the bowl.

No issue is presented as to the proper classification of this merchandise; the issue to resolve is the number of pieces this article consists of.

Two decisions were cited in this request, internal advice 195/75 and *Arnart Imports, Inc.* v. *United States*, C.D. 2550, C.A.D. 900. Apparently this request was made in the belief that T.D. 56502(6), a case cited in this internal advice and C.A.D. 900 are in conflict, as applied to this merchandise.

In both the internal advice and C.A.D. 900, reference was made to *United States* v. *S. H. Kress & Co., et al.*, 23 CCPA 90, T.D. 47764 (1935), a case in which decorated earthenware figurines with detached parasols were determined to be three articles for the purpose of determining the number of pieces, dutied in part at 10 cents per dozen pieces in paragraph 211, Tariff Act of 1930.

In I.A. 195/75, it was stated, "However, in T.D. 56502(6) (1965), we ruled that a plastic stopper at the base of an earthenware salt or pepper shaker *in such a position that it is not normally visible* (italic

added) should not be counted as a piece for the purpose of applying the specific duties provided for in schedule 5, part 2, subpart C, TSUS." Reference to an earlier case in a factual situation similar to this Treasury decision indicates that T.D. 56502(6) was premised upon several additional facts: The stopper was not considered to be a separate part in the trade; it is not usually carried separately in tableware stock; it is purely utilitarian; and it is of negligible value. C.I.E. 530/59

T.D. 56502(6) is not relevant to the resolution of this issue because it was based upon different facts. It is properly restricted to those facts.

Both *Kress* and *Arnart* are relevant. In *Arnart* an import in the condition in which it was imported was physically separated into two objects. The protestant did not establish that Congress intended that this import was to be considered to be one piece, under paragraph 211, Tariff Act of 1930. *Kress* involved the same basic factual situation.

As imported, this hanging planter consists of the earthenware container with three "attached" cords. Because *Arnart* and *Kress* did not concern imports in which the components were attached one to the other, they are not determinative of this issue.

In *Capri Creations* v. *United States*, C.D. 2585 a ceramic human figure which consisted of an earthenware head, an earthenware body, and a metal spring, was held to be dutiable as three pieces for the purpose of assessing duty under paragraph 211, Tariff Act of 1930. Paragraph 251 is the predecessor to various tariff items of subpart C, part 2, schedule 5, TSUS.

In *Capri*, each end of the metal spring screws into a protrusion from the head or body. The reason this figure was dutiable as more than one piece is, "Upon disassembling the head from the body, one experiences no difficulty in unscrewing the spring at the base of the neck, or in reassembling the head to the body by a reverse screwing action."

The cords which are fastened to this earthenware bowl are knotted so that the knot on the inside of the bowl is larger in diameter than the holes in the bowl. These cords are tied together at their other end.

From the facts it is apparent that no difficulty is experienced in disassembly or reassembly of these cords to the earthenware bowl but it is difficult to disassemble or reassemble these cords to one another. Thus, we are of the opinion that this planter consists of two pieces for the purpose of determining the proper amount of duty for imports classified under the tariff provisions of subpart C, part 2, schedule 5, TSUS.

(C.S.D. 79–12)

Classification: "Bike Bug" Engine, Designed To Be Mounted on Bicycles

Date: May 1, 1978
File: CLA–2:R:CV:MA
056333 SST

This is in reference to your letter of February 14, 1978, in which you request the tariff classification and duty rate on a "Bike Bug" engine manufactured in Japan.

The description you provided of the engine shows that it is a small, 11-pound, 2-cycle, piston-type, gasoline engine of 0.8 horsepower. It attaches to the front fork of any ordinary bicycle thereby giving the user a motor-assisted bicycle. The unit does not have a clutch. It does have, however, a carburetor and magnetic spark ignition. A gear case, a gasoline tank, brackets, and clamps are also attached to the engine.

The "Bike Bug" unit is designed to be bolted to a bicycle's front fork and convert it into a motorized bicycle whenever the user desires. Six bolts are used to mount this device which drives the front bicycle wheel by means of a roller wheel affixed to the end of the gear case. The gear case provides speed reduction and changes the engine shaft rotation at a right angle.

The engine does not have sufficient power to start the bicycle. In order to start, the rider must pedal the bicycle to the required speed. An engagement lever attached to the gear case must then be moved to lower the roller wheel against the moving bicycle wheel. Initially, the bicycle wheel functions as a starter for the engine which then takes over and drives the bicycle wheel at speeds up to 16 miles per hour.

The "Bike Bug" unit is more than a simple engine, or an internal combustion engine. If used in conjunction with the standard bicycle, it converts the bicycle into a motorized bicycle or a motorbike, both of which have been classified as motorcycles under the tariff schedules. The unit, therefore, is considered a part of a motorcycle and is classifiable under the provision for parts of a motorcycle, in item 692.55, Tariff Schedules of the United States, and dutiable at the rate of 6 percent ad valorem.

(C.S.D. 79-13)

Bonds: Entry of Merchandise for Transportation and Exportation by Private Bonded Carrier

Date: June 20, 1978
File: BON-1-R:CD:D S
208890

Re Entry for transportation and exportation by private bonded carrier; your letter of March 16, 1978.

You asked whether merchandise destined to a foreign country may be entered into the customs territory of the United States for transportation in bond through this country, without appraisement or the payment of duties, by a private carrier of bonded merchandise.

We understand that your clients are Canadian corporations which prefer to import and export merchandise at U.S. ports. The merchandise either is transported to Canada through the customs territory of the United States or from Canada to an American port for overseas shipment.

You urge the Customs Service to permit bonded carriage of this merchandise by private vehicles in order to facilitate both Canadian and American commerce.

The statutory authority for the transshipment of imported merchandise under bond is section 553 of the Tariff Act of 1930, as amended (19 U.S.C. 1553), which provides in relevant part that:

> Any merchandise, other than explosives and merchandise the importation of which is prohibited, shown by the manifest, bill of lading, shipping receipt, or other document to be destined to a foreign country, may be entered for transportation in bond through the United States by a bonded carrier without appraisement or the payment of duties and exported under such regulations as the Secretary of the Treasury shall prescribe: * * *. In places where no bonded common carrier facilities are reasonably available, such merchandise may be so transported otherwise than by a bonded common carrier under such regulations as the Secretary of the Treasury shall prescribe.

The last sentence of this provision is specific legislative authority for the use of private bonded carriers. Its effect is to limit their use to transshipment of merchandise in places where no bonded common carrier facilities are available.

Sections 18.20 through 18.24 of the Customs Regulations, concerning merchandise in transit through the United States to foreign countries, reflect the statutory limitation on use of private carriers. We must continued to enforce the statute, which states a precise and unambiguous answer to your question.

The only possible administrative solution to the problem you describe is the authority found in sections 18.1 and 18.2 of the Customs Regulations for the subsequent transfer of merchandise in transit from the bonded common carrier or contract carrier to "other bonded or nonbonded carriers." In other words, your clients can transport through the United States in their own vehicles merchandise which first has been delivered to a bonded common or contract carrier. Under section 18.8(a) of the regulations, the initial bonded carrier would remain liable for any shortage, irregular delivery, or nondelivery at the port of exit.

(C.S.D. 79–14)

Vessel Repair: Status of Vessel as a "Special Purpose Vessel" for Purposes of 19 U.S.C. 1466(c)

Date: June 27, 1978
File: VES–13–18–R: CD: C
103305 FOB

REGIONAL COMMISSIONER OF CUSTOMS,
New Orleans, La. 70112

DEAR SIR: This is in reply to your memorandum of February 7, 1978, transmitting a supplemental petition from Gulf Mississippi Marine Corp., filed under section 4.14(k) of the Customs Regulations, in connection with foreign repairs to the oceangoing tug MV *Gulf King* which were declared on entry No. 100024 dated July 27, 1976.

According to the petitioner the MV *Gulf King* departed the United States on March 10, 1973, in ballast for Genoa, Italy. While overseas the vessel handled anchors and towed barges to and from the North Sea. Petitioner claims the vessel has no facilities to carry cargo or passengers. Petitioner requests a ruling declaring the *Gulf King* a "special purpose vessel."

You state that you are submitting additional evidence for our consideration. Our ruling of January 7, 1977, 102369 BJF, held there was not enough evidence to show the actual use of this vessel. We said upon receipt of additional evidence, we would reconsider our position.

You state in your memorandum to us that petitioner seeks only a ruling concerning the status of the vessel in regard to title 19, United States Code, section 1466(c) (19 U.S.C. 1466(c)), which exempts from duty foreign repairs and equipment purchased by vessels that are primarily designed and used for purposes other than transporting passengers or property in the foreign or coasting trade which arrive in

a port of the United States at least 2 years after their last U.S. clearance, except for such repairs made and equipment purchased within the first 6 months of the voyage.

We have reconsidered the entire question of whether tugboats as a class might be considered such vessels. While we cannot broadly categorize all tugboats as "special service" vessels, we believe that boats in the tug service which are demonstrably primarily designed for "special service" and used for such "special service" fall within the purview of 19 U.S.C. 1466(c), despite any incidental, infrequent use in carrying vessel equipment, supplies, workers, or crewmen, between a port and the locale of their principal use. Each case is decided individually on the basis of evidence presented.

As pointed out above, we recognize that tugboats may be primarily used to transport merchandise or supplies, in which case section 1466(c) would provide no relief to the vessels so used. However, if a determination is made following examination of appropriate evidence that the tugs were not so primarily used, the relief provisions of 19 U.S.C. 1466(c) will be applicable and the tugs considered to be "special purpose" or "special service" vessels.

In view of the two-time charter parties submitted by the petitioner and of the very nature of the vessel itself, as indicated by the photograph and the blueprints of the vessel, we are of the opinion that the MV *Gulf King* falls within the provisions of section 1466(c) as a "special purpose vessel."

(C.S.D. 79–15)

Vessel Repair: Status of Aircraft Operated by Travel Club as Private or Commercial for Purposes of 19 U.S.C. 1466

Date: June 28, 1978
File: AIR–4–07–R:CD:C
103259 FO

REGIONAL COMMISSIONER OF CUSTOMS,
Baltimore, Md. 21202

DEAR SIR: This is in reply to your original correspondence of January 13, 1978, and further correspondence of April 13, 1978, containing supplementary information for our consideration from (A, on behalf of travel club B) concerning foreign repairs to their aircraft. The entry number is 202842 dated February 2, 1977.

According to A, B operates a private club composed of members who own the aircraft, have their own committees, and decide where the aircraft shall go. There are no scheduled flights. The aircraft flies

only to destinations selected by the members. He states it is not engaged in trade.

A requests a ruling on whether this club's aircraft is private and, therefore, not within the purview of title 19, United States Code, section 1466 as amended. If we hold that this is a commercial aircraft, then he requests we consider the dutiability of foreign repairs declared in the above entry.

In your letter to A, dated April 13, 1978, you hold certain repairs listed as item A, B, C, D, E, and G as dutiable. You hold items H and I to be tests without related repairs and therefore nondutiable. You request that we consider the dutiability of item F if we find this aircraft falls within the purview of 19 U.S.C. 1466.

In this case, the aircraft is commercial and not private. B is a travel club. Section 6.3 (a) and (c), Customs Regulations, provides that aircraft utilized by members of air travel clubs, whether such aircraft are owned or chartered by the air travel clubs, shall be treated as carrying passengers for hire.

Since the aircraft does fall within the purview of 19 U.S.C. 1466, we will consider the dutiability of item F. This item deals with checking the aircraft for corrosion. If this were made in the form of a survey, not followed by repairs, it would not be dutiable (CIE 147/63). However, if followed by repairs, the inspection would be dutiable.

The bill dated January 31, 1977, Costa Rica, showed that after the aircraft was checked for corrosion, there was a corrosion treatment applied to the skin. It is noted in the bill that this treatment was performed after the inspection. Therefore, this item is dutiable.

(C.S.D. 79-16)

Prohibited and Restricted Importations: Trademark Infringement; Use of the Term "Ping Pong"

Date: June 29, 1978
File: TMK-1-R:E:R
709206 0

To: CHIEF, Imports Compliance Branch, Region II, New York.

From: Director, Entry Procedures & Penalties Division, Headquarters.

Subject: Trademark: "Ping Pong"—alleged infringement; your memorandum dated June 15, 1978.

In your memorandum, you asked for our opinion on whether or not the term "Candy Ping Pong Set," which appears on the box and on

the immediate package of a confectionary product offered for importation in New York by (freight company) for the account of (import-export company) of Montreal, Quebec, Canada, would infringe on the registered trademark, "Ping Pong," which has been recorded with Customs for import protection by Harvard Table Tennis, Inc. The trademark owner, in its letter of May 31, 1978, thought that the entry of the product referred to above would be illegal. You noted that the "Ping Pong" trademark is registered in class 22 (games). In view of the nature of the merchandise, you asked for an early reply. A sample of the box and the candy product, shaped like table tennis paddles and balls, was submitted.

Pursuant to section 133.21(a) of the Customs Regulations, articles bearing a mark copying or simulating the recorded mark would be denied entry and would be subject to forfeiture as prohibited merchandise. Infringement of federally registered marks is governed by the test of whether defendant's use is likely to cause confusion, or to cause mistake, or to deceive. In determining whether or not marks are confusingly similar in situations where the goods upon which they appear are not in direct competition, it is helpful to phrase the problem in terms of the ultimate question: Is the reasonably prudent purchaser likely to be confused as to source, connection, or sponsorship between the goods or services?

The use of a similar trademark on noncompetetive but related goods may create the unconscious impression that there is some kind of corporate affiliation between the producers of the related goods. A reasonably prudent purchaser, therefore, could be confused as to source, connection, or sponsorship between the goods. Assuming a likelihood of confusion, the infringer in this case is using the goodwill and reputation of a seller in another product market to sell his own goods. The infringer is "unjustly enriched" by the advertising expenditures and intangible goodwill developed by another. The more "famous" and "well known" a mark is, the greater the likelihood that use on noncompetetive products will cause confusion. Where strong and well-known marks such as "Ping Pong" are used by others, the scope of protection will extend far to other product fields.

Because a trademark carries the name and reputation of the owner, which may be damaged when borrowed without permission of the owner, it has come to be recognized that, unless the borrower's use is so foreign to the owner's as to insure against any identification of the two, it is unlawful. The idea that there can be no unfair competi-

tion if there is no competition is outmoded. Emphasis is now placed on the word "unfair" rather than "competition." Thus under the modern related goods rule, the absence of direct competition between the goods or services of the parties is no obstacle to a finding of trademark infringement or unfair competition.

Accordingly, we are of the opinion that the sample packages, marked "Candy Ping Pong Set," bear marks that copy or simulate a registered and recorded trademark. Pursuant to 15 U.S.C. 1124 and 19 CFR 133.21(a), the confectionary products referred to above shall be denied entry and are subject to forfeiture as prohibited importations.

(C.S.D. 79–17)

Prohibited and Restricted Importations: Copyright Law; Importation of the Book "Organic Chemistry," Published in Japan

Date: June 29, 1978
File: CPR–1–R:E:R
709213 JR

This is in response to your letter of June 1, 1978. You inquired about permission for bringing into the United States the book "Organic Chemistry" by J. B. Hendrickson, D. J. Cram, and G. S. Hammond (International Student Edition), published by McGraw-Hill Kogakusha, Ltd., Tokyo, 1970.

The U.S. copyright law, 17 U.S.C. 601, prohibits the importation into the United States of copies of a work consisting preponderantly of nondramatic literary material that is in the English language and is protected by the copyright laws, subject to certain exceptions. One such exception exists where importation, for use and not for sale, is sought with respect to no more than one copy of any work at any one time.

Another exception applies to persons arriving from outside the United States, with respect to copies forming part of such person's personal baggage.

It appears from your letter that your importation of "Organic Chemistry" into the United States will fall into these categories (17 U.S.C. 601(b)(4) (A), (B)), and will thus be permitted.

(C.S.D. 79–18)

Prohibited and Restricted Importations: Copyright Law; Book Published Abroad

Date: July 6, 1978
File: CPR–5–R:E:R
709249 0

With your letter of June 27, 1978, you submitted a mockup of the book (title of book), which will be published in Japan by (company A) of Tokyo. We understand that (company B) has the distribution rights in the United States. You asked if this book could be imported and distributed in the United States without violation of the "manufacturing clause" of the Copyright Revision Act of 1976 (17 U.S.C. 601–603). In general, section 601(a) of the Copyright Act prohibits the importation and public distribution in the United States of a work authored by a U.S. national or domiciliary consisting preponderantly of nondramatic literary material that is in the English language, unless the portions consisting of such material have been manufactured in the United States or Canada.

Our review of the mockup indicates that the work will be an oversized book (9¼″x12¼″), printed no heavy coated stock, with heavy covers and a special slipcase. It is intended to list in the United States for $49.95 until December 31, 1978, and thereafter for $60. The book will consist of 324 to 328 pages.

The major portion of the book will be devoted to 154 full-color photographs of objects from the tomb of Tutankhamen. These photographs were specially taken for the book; they include photographs of all the objects now on exhibit in museums in the United States. Many of the other objects have never been photographed before.

The secondary portion of the book consists of the entire text (including author's notes and index) of the book "The Search for the Gold of Tutankhamen" by X. X is an American author and this book has been published in the United States without illustrations in hardcover (by company C) and in paperback (by company D). The book describes the search for and discovery of the tomb of Tutankhamen and the aftermath.

The contents of the book will be approximately as follows (all printed on text-grade paper unless specified):

	Page
Preface to section on color photographs of objects from tomb	2
Color photographs of objects (printed on 120-lb coated stock)	128
Detailed captions to color photographs	48
Brackman material (text, notes, and index)	122
Black-and-white illustrations (printed on matte coated stock)	16
Total	324

Except for X's material, company A is the author of all nondramatic literary material in the work.

Where the work consists only partially of material protected by the manufacturing clause, the test is whether the work consists "preponderantly" of the protected material. The manufacturing requirement would apply if the English language nondramatic literary text exceeds the pictorial material in importance, even though more pages of the book might be devoted to the pictures than the text. However, in this case, we are of the opinion that the 122 pages of X's material does not exceed the 176 pages of superb color photographs, with captions, in importance. We note that X's text, without illustrations, is available in hard-cover edition for $8.95, and in paperback for $1.95. The illustrated oversized edition to be imported by your firm will be priced at 25 to 30 times the price of the paperback and 5 or 6 times the price of the hard-cover editions now available in the United States.

In view of the above, we are of the opinion that the work in question, published in Japan and bearing the notice of copyright, would not be prohibited entry into the United States by the "manufacturing clause" of the Copyright Revision Act of 1976 (17 U.S.C. 601–603). Per your request, the mockup you submitted in returned herewith.

(C.S.D. 79–19)

Drawback: Date of Importation for Drawback Purposes

Date: July 7, 1978
File: WAR–1–R:CD:D WR 209016

Ref. Memorandum (WAR–1–RO:CV–L H) of May 3, 1978, on date of importation for drawback purposes.

REGIONAL COMMISSIONER OF CUSTOMS,
Baltimore, Md. 21202

DEAR SIR: You asked whether the importation of warehoused merchandise occurs when the merchandise is withdrawn from the

warehouse for consumption. The specific issue is whether the 5-year time limit for exportation to qualify for payment of drawback begins to run when the merchandise is withdrawn for consumption.

The date of importation for Customs purposes is defined in section 101.1(h) of the Customs Regulations (19 CFR 101.1(h)). That definition is based on long-standing judicial precedent. See *U.S.* v. *Field & Co.*, 14 Ct. Cust. App. 406, T.D. 42052 (1927); *Henry Hollander Co.* v. *U.S.*, 22 C.C.P.A. 645, T.D. 47632 (1935); and *U.S.* v. *Mussman & Shafer, Inc.*, C.A.D. 506, 40 C.C.P.A. 108 (1953). Thus, as provided in section 101.1(h), the date of importation is determined by the means of conveyance. If the merchandise arrives on a vessel, the date of importation is the date on which the vessel arrives within the limits of the U.S. port with intent to unlade that merchandise. If the merchandise is brought in by any other means, the date of importation is the date on which the merchandise arrives within the Customs territory of the United States.

The date of importation has no bearing on the effective date for establishing the rate of duty on imported merchandise. Section 315(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1315(a)) provides that the rate of duty imposed on an article entered for consumption or withdrawn from warehouse for consumption is the rate in effect when the entry or withdrawal is made. In this regard, see sections 141.68 and 141.69 of the Customs Regulations (19 CFR 141.68 and 141.69).

There is no legal support for the argument that merchandise which is entered for warehouse is not imported until it is withdrawn for consumption. The importation occurs before the merchandise is entered for consumption or warehouse. For example, in the case of an arrival by vessel, the master has 48 hours from the time of arrival to make entry for the vessel under section 434 of the Tariff Act of 1930, as amended (19 U.S.C. 1434) (American vessels) or section 435 of the Tariff Act of 1930 (19 U.S.C. 1435) (foreign vessels). In pertinent part, section 484(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), requires a consignee of imported merchandise to make entry for the merchandise within 5 working days after the entry of the importing vessel. Thus, in the normal course of events, merchandise is entered a number of days after it is imported.

Consequently, if merchandise is imported, entered for warehouse, and then withdrawn from warehouse for use in producing a product that is later exported, that product must be exported within 5 years from the date of importation in order to qualify for drawback. The withdrawal from warehouse does not establish the date of importation for drawback purposes.

(C.S.D. 79-20)

Brokers: Denial of Application for Corporate Customhouse Broker's License; Concealment and Willful Misstatement of Pertinent Facts

Date: July 7, 1978
File: BRO 3-02 R: E: E
306083 W

This is in reference to your letter of June 7, 1978, requesting a review under section 111.17(a) of the Customs Regulations of the denial of an application for a corporate customhouse broker's license for the Customs district of (location) for (A Corp.). That application was denied by headquarters, U.S. Customs Service, on April 14, 1978, under section 111.16(b)(4) of the Customs Regulations for the concealment and willful misstatement of pertinent facts in the application. Specifically, in an interview with Customs agents on September 16, 1977, you stated that two particular individuals on the firm's board of directors were the only two individuals who had invested the initial money to finance the corporation and that those two persons had a managerial as well as financial interest in the corporation and that no other individual or company had a real or implied interest in the firm. Interviews held with these two persons disclosed that they in fact knew very little about the corporation and had not invested any money in it. Further investigation subsequently disclosed that the initial capital was actually supplied by two "other" individuals who together operate a freight consolidation company in Boston and did not want their involvement in the brokerage company to become known for fear of damaging their own business.

Section 641(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(a)) provides that the Secretary of the Treasury may prescribe rules and regulations for licensing as customhouse brokers citizens of good moral character and corporations, and also provides that the Secretary may require, as a condition to granting any license, the showing of such facts as he may deem advisable as to the qualifications of the applicant to render efficient service to importers and exporters. Section 641(d) of that act (19 U.S.C. 1641(d)) further authorizes the Secretary to prescribe such rules and regulations as are necessary to protect importers and the revenue of the United States, and to carry out the provisions of section 641. Section 111.14(b) of the Customs Regulations (19 CFR 111.14(b)) requires the district director to refer a corporate application to the special Customs agent in charge for investigation and report on such factors as set forth in section 111.14(c). Of course, the interview with Customs agents, as

part of the investigation, must be considered part of the application, and it is on these willful misstatements (of pertinent facts) that the licence was denied, not necessarily the substance of those facts, which has apparently been changed.

We stress the point that complete honesty with Customs when applying for a broker's license is an essential consideration in deciding whether the license should be issued. Because you have not provided information which would serve as a basis for our changing the initial decision to deny your application, we hereby affirm that denial.

On or after April 14, 1979, 1 year from the date of initial denial, a new application for a corporate customhouse broker's license for (A Corp.) may be favorably considered by the Customs Service.

(C.S.D. 79–21)

Drawback: Availability of Drawback on Supplies Used on U.S. Vessels Engaged in Trade Between a U.S. Port and a Vessel Anchored Outside the Territorial Waters of the United States

Date: July 10, 1978
File: DRA–1–R:CD:D S 208969

Attention: Director, Classification and Value Division.

Re Drawback under 19 U.S.C. 1309; Classification and Value Division memorandum of April 21, 1978.

REGIONAL COMMISSIONER OF CUSTOMS,
Houston, Tex.

DEAR SIR: You asked whether drawback is payable on supplies used on vessels of the United States engaged in trade between a port of the United States and a vessel anchored outside the territorial waters of the United States.

Section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), provides in part as follows:

> (a) Articles of foreign or domestic origin may be withdrawn * * * from any customs bonded warehouse, from continuous customs custody elsewhere than in a bonded warehouse, or from a foreign trade zone free of duty and internal revenue tax * * *
> (i) for supplies (not including equipment) of * * * (B) vessels of the United States * * * actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, or between Hawaii and any other part

of the United States or between Alaska and any other part of the United States * * *

Section 309(b) of the Tariff Act provides in part that articles of domestic manufacture which are laden as supplies on a vessel of the United States described in section 309(a)(1) shall be considered exported for drawback purposes.

Accordingly, whenever a vessel is entitled to duty-free supplies under section 309(a), the lading of supplies of domestic manufacture or production for use on that vessel is an exportation of the supplies under section 309(b). Supplies so exported may be subject of claims for drawback under 19 U.S.C. 1313 and section 22.18 of the Customs Regulations.

(C.S.D. 79-22)

Vessel Entrance: Ship's Propeller and Tail Shaft, Removed From a Vessel for Repair

Date: July 11, 1978
File: VES-12-01-R:CD:C
103398 RB

DISTRICT DIRECTOR,
Tampa, Fla. 33602

DEAR SIR: This is with respect to your memorandum of April 17, 1978, referring to a request from a shipping agent relative to the entry of a ship's propeller and tailshaft which were removed from a vessel for repair. Specifically, you ask whether or not the aforementioned articles are subject to entry and the payment of duty.

By way of background, it is noted that the vessel arrived in the normal course of trade, was drydocked at Jacksonville, and proceeded on its voyage with a substitute propeller and tailshaft installed, The items removed have since been repaired, and have been held at Jacksonville for the past 2 years.

First of all, concerning dutiability, the propeller and shaft must be categorized with reference to the Tariff Schedules of the United States. Accordingly, pursuant to general headnote 5(e), TSUS, it is noted that vessels which are not yachts or pleasure boats are not articles which are subject to the provisions of the schedules. In this context, the vessel must be taken as a whole, with all its permanent attachments necessary or useful to accomplish the object for which it is designed. Thus, the old and well-established rule of Customs jurisprudence is that parts of a vessel's hull and fittings are likewise not

articles which are subject to the provisions of the schedules in accordance with general headnote 5(e) and are, consequently, not subject to duty thereunder as imported merchandise. By way of definition, the parts of a vessel's hull and fittings have been determined to consist of those things of a permanent character incorporated or attached to the hull or propelling machinery, which would remain onboard if the vessel were to be laid up for a long period (see T.D. 34150 and T.D. 44359).

By way of contrast, the equipment of a vessel, as opposed to its hull and fittings, would be subject to treatment as imported merchandise landed and delivered therefrom pursuant to title 19, United States Code, section 1446.

Nevertheless, it is our view that the propeller and shaft in controversy were attached to the hull of the vessel with sufficient permanence to warrant a finding that they were parts of the vessel's hull and fittings (and not vessel equipment) and, as such, were entitled to duty-free treatment.

This finding of nondutiability is somewhat bolstered by a previous Customs Court ruling that a spare propeller and shaft of a vessel, "although not yet installed or attached to the hull thereof," are, nevertheless, entitled to free entry under title 1, United States Code, section 3, if they are manufactured for and carried as necessary spare parts on the particular vessel (*Consolidated Water Power and Paper Co.* v. *U.S.*, C.D. 1192). The clear implication is that the spare propeller and shaft, although uninstalled, are still considered to be sufficiently related to the vessel itself so as not to be deemed equipment thereof. Accordingly, upon installation, these spare parts must necessarily become integral elements of the vessel's hull and fittings, no more to be considered equipment than when detached and carried aboard the vessel.

Second, because parts of a vessel's hull and fittings (as distinguished from vessel equipment and supplies) are not dutiable for the same reason that a vessel is not dutiable (an intangible under general headnote 5(e), TSUS), the result is that such parts fall within the exception of section 141.4(a) of the Customs Regulations and are not required to be entered as imported merchandise.

Accordingly, we find no basis for requiring either entry or the payment of duty for parts of a vessel's hull and fittings when severed from a vessel in this country.

Should you have any additional inquiries, please do not hesitate to write us again.

(C.S.D. 79–23)

Brokers: Guidelines for Considering Responsible Supervision and Control for Firms Applying for Corporate Licenses

Date: July 11, 1978
File: BRO 3–02 R:E:E
305541 W

DIRECTOR, *Classification and Value*
Los Angeles, Calif. 90053

DEAR SIR: This is in further reference to your memorandum of February 3, 1978, raising questions regarding customhouse brokers. Our letter of February 24, 1978, responded to the first question (display of corporate brokerage license) and advised that we would respond on the matter of guidelines for responsible supervision and control by licensed corporate officers (secs. 111.11(c)(3) and 111.28(a), Customs Regulations) as soon as possible in light of the study of this matter by headquarters.

While there is a task force at headquarters studying customhouse brokers, it is doubtful that guidelines will result from that group's efforts any time in the near future. However, we have formulated a policy as to how headquarters will consider the factor of responsible supervision and control for firms "applying" for corporate licenses, and the letter to the New York region dated June 29, 1978, and our further comments may be valuable to you.

In addition to the four factors noted in that letter which we examine, a fifth factor, the "financial interest" of the broker in the firm, is a proper factor to be considered. For example, we would expect less interest in the proper supervision, etc. of a firm from a licensed officer who derives no more than a fixed rental fee for his "participation" in the firm than from a licensed officer with a percentage of the operation.

Additionally, we agree with the April 13, 1977, memorandum from the district director at San Diego that in the (name) situation, as outlined in that memorandum and the accompanying "Report of Investigation," there appears to be a considerable lack of "any" supervision or control by (name). It is clear that headquarters would not presently issue a license to the firm.

With this letter, we consider your request for internal advice as closed, and we hope that we have provided enough guidelines for you to act in this particular case. We will advise if other guidelines are developed by headquarters. In the meantime, any action to be taken in this matter should be taken according to usual practices.

(C.S.D. 79–24)

Classification: Stainless Steel Splashguards

Date: July 13, 1978
File: CLA–2:R:CV:MA
056720 JAS

In your letter of May 11, 1978, you inquire as to the tariff classification of stainless steel splashguards from Canada. Samples and brochure were submitted.

You state that Customs officers in San Juan are classifying the splashguards under the provision for articles of iron or steel, not coated or plated with precious metal in item 657.25, Tariff Schedules of the United States (TSUS), dutiable at the rate of 9.5 percent ad valorem.

As imported, the product is made of stainless steel and is stamped or formed to desired shape. Splashguards are used as truck and auto mudguards. They are suitable for use on compacts, full- and mid-size cars, station wagons, mini pickup trucks, and 4-wheel-drive vehicles, campers, vans and 2-wheel vehicles.

Splashguards chiefly used on the vehicles enumerated above, other than 2-wheel vehicles, would be classifiable under the provision for hinges, fittings, and mountings not specially provided for, of iron or steel, designed for motor vehicles, in item 647.01, TSUS, dutiable at the rate of 4 percent ad valorem. If the splashguards are Canadian articles (general headnote 3(d)) and original motor vehicle equipment as defined in schedule 6, part 6, subpart B, headnote 2(a), TSUS, copies enclosed, they would be classifiable in item 647.02, TSUS, entitled to entry free of duty.

Splashguards chiefly used on 2-wheel vehicles would be classifiable under the provision for other articles of iron or steel, not coated or plated with precious metal, in item 657.25, TSUS, dutiable at the rate of 9.5 percent ad valorem.

(C.S.D. 79–25)

Classification: Various Articles Used in Drip Irrigation Systems

Date: July 19, 1978
File: CLA–2:R:CV:MA
056233 HL

This is in reference to your letter of January 27, 1978, concerning the tariff status of various articles used in drip irrigation systems in greenhouses, nurseries, orchards, and in vegetable production. These articles are products of Holland and West Germany.

The "Rain Robot" is an instrument used for the on-off control of solenoid valves in a sprinkler system. It consists of a clock that is set to turn on the sprinkler system at predetermined times and allow the system to operate for a predetermined length of time.

It is our position that the "Rain Robot" is a time switch classifiable under the provisions for time switches with clock movements in items 715.60 through 715.68, Tariff Schedules of the United States (TSUS), depending upon value, with duty at the rates prescribed in column 1 of the enclosed copy.

Solar counters, which are tied into and signal the "Rain Robot," are instruments of solid-state, printed circuit design used to measure solar energy. Photo cells are mounted, for instance, on the roof of a greenhouse and connected to the solar counters by means of telephone wire. The unit will measure the sun's energy in term of plant-water stress and emit a signal at the precise time plants need water. On receiving the signal, the "Rain Robot" will activate the sprinkler system.

Solar counters of this kind are classifiable as electrical measuring and checking apparatus under item 712.49, TSUS, and dutiable at the rate of 10 percent ad valorem.

Various nozzles, apparently in chief value of plastic, clamped onto, inserted in, or screwed into a plastic pipe and used in overhead and bed watering, are designated rainbow, perfect, and misty mist nozzles in the submitted literature. If of a kind of nozzle chiefly used in agricultural or horitcultural pursuits, these nozzles are classifiable under item 666.00, TSUS, and entitled to free entry. If not, these nozzles are classifiable under the provision for articles not specially provided for, of rubber or plastics, other, in item 774.60, TSUS, and dutiable at the rate of 8.5 percent ad valorem.

An assembly insert of plastic which aids the attachment of perfect nozzles to waterlines is also described in the literature. This insert is classifiable under the provision for hose, pipe, and tubing, of rubber or plastics, with or without attached fittings, in item 772.65, TSUS, and dutiable at the rate of 4 percent ad valorem.

A runout valve or pressure relief valve is attached to the ends of irrigation lines allowing the fast shutdown of perfect nozzles. The valve eliminates drip from the perfect nozzles and is classifiable under the provision for valves to control the flow of liquids in item 680.27, TSUS, dutiable at the rate of 5 percent ad valorem.

Twisty quick disconnecting devices for hose ends, nozzles, and water spigots, used for quick disconnecting of hoses, are classifiable under the provision for articles of brass in item 657.35, TSUS, and dutiable at the rate of 0.6 cent per pound plus 7.5 percent ad valorem.

(C.S.D. 79-26)

Temporary Importation Under Bond: Radio Parts Entered for Testing; Delayed Testing; Testing of Representative Samples Only

Date: July 21, 1978
File: CON-9-09-R:CD:D S
209072

Attention: District Director, El Paso, Tex.

Re Radio parts entered under item 864.30, TSUS, your inquiry of May 15, 1978.

REGIONAL COMMISSIONER OF CUSTOMS,
Houston, Tex. 77002

DEAR SIR: You asked whether radio parts may be entered under item 864.30, Tariff Schedules of the United States (TSUS), if the parts are tested only when ordered and if only a representative sample of the total shipment actually is tested.

The imported radio parts, including simple metal items such as screws, rivets, and cams, are tested by visual and mechanical means for cosmetic appearance, plating, hardness, and dimensions.

Rather than test each article imported, the company tests, for instance, 20 parts out of a shipment of 150 or less and 1,250 parts out of a shipment of over 500,000. If the sample tested fails to meet specifications, the entire shipment is returned to the foreign manufacturer.

Only when there is a need for them in the company's radio assembly plant are the parts actually tested. Each lot is tested as a totality before any portion is exported. The delay between importation and testing normally does not exceed 3 months. In less than 10 percent of the cases, the company has requested extensions of the 1-year temporary importation bond. The majority of the entries are canceled after multiple partial exportations, for an entry often covers more than one type of part.

Under item 864.50, TSUS, articles intended solely for testing, experimental, or review purposes may be entered duty-free, temporarily under bond for their exportation within 1 year from the date of importation. Upon application to the district director, the bond may be extended for one or more additional periods which, added to the initial period, does not exceed a total of 3 years.

Sample testing is a well-recognized and widely used method of testing merchandise. Since the validity of the method depends on the selection of representative samples, sample selection is an integral part of the testing process. The samples must be selected by the

importer from the total quantity of articles subjected to testing. The total quantity of articles, not just the samples that are tested directly, may be entered duty-free under the temporary importation provision in item 864.30, TSUS.

Articles entered solely for the purposes set forth in item 864.30, TSUS, may remain in this country, subject to the conditions of the temporary importation bond, for an initial period of 1 year from the date of importation. The statute does not require the testing immediately after entry, nor does it require that the merchandise be exported as soon as the testing is completed. As long as the importer's primary intention at the time he enters the articles under item 864.30 is to test them, he also may store them during the period covered by the bond.

Applications for extensions of the 1-year bond may be approved when factors related to feasibility of the testing or review of the imported merchandise covered by the bond justify the extension. The importer must demonstrate, for instance, that for reasons beyond his control he could not perform or complete the tests within the 1-year period. If testing is postponed or canceled due to a change in the importer's primary intent, the articles entered under T.I.B. must be exported or destroyed and the bond canceled.

Accordingly, the radio parts may be entered under item 864.30, TSUS, provided that there is compliance with the applicable statute and regulations. Sample testing of the articles entered is permissible. Extensions of the temporary importation bond should be granted only for reasons directly related to the purpose for which the articles were entered; that is, testing.

(C.S.D. 79-27)

Drawback: Designation of Imported Material on a "First in, First out" Basis Under 19 CFR 22.4(f)

Date: July 21, 1978
File: DRA-1-09-R:CD:D S 209230

Re Your request for a ruling of July 6, 1978, relative to section 22.4(f), C.R.

You asked whether one of your clients, if operating under 19 U.S.C. 1313(a), may designate imported material used on a "first in, first out" basis in a situation where tanks which store your client's compound Z are never allowed to become empty, thereby commingling various imported lots of that material.

Compound Z is purchased solely from overseas suppliers, but due to price fluctuations, amounts of duty paid on the compound differ, thereby affecting the allowance of drawback.

Section 22.4(f) provides in pertinent part:

> When identification is made against two or more lots of imported merchandise of *different dutiable values or subject to different rates of duty*, or against two or more lots of drawback products subject to different allowances of drawback, the drawback shall be based first upon the lot or lots of the lowest dutiable value, rate of duty, or drawback allowance, as the case may be, then upon the lot or lots of the next higher dutiable value, rate of duty, or drawback allowance, and so on from lower to higher until all the lots have been accounted for * * * (italic added).

As you can see, "first-in, first-out" may be used in designating against the imported merchandise only when the amount of duty paid on each unit of designated material is constant. Since you state that the price fluctuations result in different rates of duty (we assume you mean different amounts of duty on different shipments), your client must operate under the provisions of section 22.4(f), C.R. Whether the rates or amounts of duty differ is irrelevent; either situation makes 22.4(f) C.R. applicable.

Further, the turnover of the units of imported merchandise must be such that the completed product X is exported within 5 years or after importation of the compound Z used to produce it.

Inasmuch as your client will be or is operating under the provisions of 1313(a), we suggest that you contact the Regional Commissioner of Customs office where the claims will be filed for guidance relative to inventory and accounting records.

(C.S.D. 79–28)

Vessel Repair: Exemption From Repair Duties Under 19 U.S.C. 1466(c) for Special-Purpose Vessel

Date: April 28, 1978
File: VES–13–18–R:CD:C
103158 FOB

REGIONAL COMMISSIONER OF CUSTOMS,
New Orleans, La. 27112

DEAR SIR: This is in reply to your memorandum of November 11, 1977, transmitting a petition from Arthur Levy Boat Service, Inc., filed under section 4.14(k) of the Customs Regulations, in connection with foreign repairs to the VM *Arctic Seahorse* which were declared on entry No. 244785, dated September 27, 1977.

You state in your memorandum the *Arctic Seahorse* departed from the United States on September 12, 1973, and returned 4 years later on September 24, 1977 (Mr. X) of the Arthur Levy Boat Service, Inc., stated in a telephone conversation with (Mr. Y) of this office on January 16, 1978, that this ship is identical to the MV *North Seahorse.*

Our prior ruling on the *North Seahorse* held that it "* * * appears to have been designed and used other than for the transportation of passengers (or workmen) or cargo; that is, other than for the transportation of workmen or supplies between rigs, drilling sites, and/or the mainland." We held that repairs made after the first 6 months were not dutiable.

The *Arctic Seahorse* and its identical sister ship *North Seahorse* are "tug/supply vessels." The *North Seahorse* was declared a "special-purpose vessel;" therefore, its identical sister should be similarly classified.

You state in your memorandum to us that petitioner seeks a ruling concerning the status of the vessel in regard to title 19, United States Code, section 1466(c) (19 U.S.C. 1466(c)), which exempts from duty foreign repairs and equipment purchased by vessels that are primarily designed and used for purposes other than transporting passengers or property in the foreign or coasting trade which arrive in a port of the United States, except for such repairs and equipment purchases performed within the first 6 months of the voyage. Also, if the ship is under warranty and on her maiden voyage, proof of that fact would be considered in regard to the remission of duties assessed on repairs made during that voyage. See ORR ruling 23–69.

We have reconsidered the entire question of whether tugboats as a class might be considered such vessels. While we cannot broadly categorize all tugboats as special-service vessels, we believe that boats in the tug service which are demonstrably primarily designed and used to tow, push, position, or reposition other vessels fall within the purview of 19 U.S.C. 1466(c) despite any incidental, infrequent use in carrying vessel equipment, supplies, workers, or crewman between a port and the locale of their principal use.

As pointed out above, we recognize that tuggoats may be primarily used to transport merchandise or supplies, in which case section 1466(c) would provide no relief to the vessels so used. However, if a determination is made by Customs officers (in most cases, probably regional liquidators) following examination of the declaration (CF 3415), entry (CF 7535), and appropriate evidence that the tugs were not so primarily used, the relief provisions of 19 U.S.C. 1466(c) will be applicable and the tugs considered to be "special purpose" or "special service" vessels.

Your file is returned.

(C.S.D. 79-29)

Vessel Repair: Installation of Inert Gas System

Date: June 22, 1978
File: VES-13-18-R:CD:C
103452 JM

DEAR ——: This is in reference to your letter of May 17, 1978 concerning our ruling interpreting title 19, United States Code, section 1466. Section 1466 provides for duty of 50 percent of the costs of repairs to or equipment purchased for an American vessel while in a foreign port.

In order to meet the requirements of S. 682, certain existing American tankers had inert gas systems installed in foreign shipyards. Our ruling dated April 1, 1977, held that the permanent installation of an inert gas system in an American vessel in a foreign shipyard would be an alteration to the hull and therefore would not be dutiable as a repair or an equipment purchase under section 1466. The principal components of the system are the scrubbing tower, fans, deck seal, scrubber circulating water pump, piping distribution system, and necessary controls. The purpose of installing the system is to provide a means of clearing combustible gases from cargo tanks and replacing them with inert gases to reduce hazard potential.

You state that installation of an inert gas system does not alter the hull any more than the installation of a gas range. You also state that Jones Act status should be withdrawn from the vessels if the described installation if found to be nondutiable.

The basis for the ruling that the described installation would be a nondutiable alteration is that the system installed would be a new design feature and not a replacement for or a restoration of parts now performing a similar function, that is, a repair.

In an opinion of the Attorney General, which quoted the Naval Board of Construction, the term "equipment" of a vessel was defined as "any portable thing that is used for, or provided in, preparing a vessel, whose hull is already finished, for service" (27 O.A.G. 228 (1909)). That opinion went on to say that the term "addition to the hull" or "fittings to the hull" (in contradistinction to "equipment," or "repairs") is any permanent thing attached to the hull which would remain onboard were the vessel to be laid up for a long period.

Acting on a similar matter in *United States* v. *Admiral Orient Line*, 18 C.C.P.A. 137 (1930) the Court of Customs and Patent Appeals held that the installation of swimming tanks on a vessel was an alteration and therefore not subject to the provisions of section 1466. In

Otte v. *United States*, 7 C.C.P.A. 166 (1916), the Court of Customs and Patent Appeals held that two elements must be present in order that an article may be regarded as an addition or fitting to the hull, rather than merely equipment of or repairs to the vessel. The two elements are that the article be permanent and that the article be essential to the successful operation to the vessel.

We believe these two elements exist in the ruling referred to and are of the opinion that the ruling is consistent with the above-cited cases, other court cases, and previous Customs Service rulings, in that the inert gas and segregated ballast systems are permanent and essential additions or alterations of the vessel rather than equipment of or repairs to the vessel. A finding that the vessel was "rebuilt" was not necessary to reach our decision and such finding was neither expressed nor implied in our decision. Further, we believe that additions to or alterations of the hull do not necessarily constitute a "rebuilding." However, whether or not a vessel is "rebuilt" is a matter within the jurisdiction of the U.S. Coast Guard. Questions concerning "rebuilding" should be addressed to that agency.

In your article on this subject, you state, "An inert gas retrofit is by any standards a major project. Depending on the ship's size, total installed cost, including shipyard charges, can run from $700,000 to $1 million. It involves installation of sea chests, probable strengthening of deck areas to support components, installation of gas main on decks, penetration of the tank tops, and surveys—in all a major operation." We believe this installation involving additions to or fittings of the hull is clearly discernible from the installation of a galley range which in most cases would be replacement of a previously installed range.

If we can furnish additional information or be of further service, please feel free to call on us.

(C.S.D. 79-30)

Fines, Penalties, and Forfeitures: Unauthorized Use of Foreign Locomotives in Domestic Traffic; 19 U.S.C. 1592

Date: May 25, 1978
File: ENF 4-02.2 R:E:C
650582 DMB

DONALD GRIMWOOD,
Assistant Regional Commissioner (Operations), Region IX,
Chicago, Ill. 60607

DEAR SIR: This is in reply to your oral request for a clarification and interpretation of two headquarters rulings, dated February 23

(ENF 4–02.2 R:E:C/607572 WR) and April 4, 1978 (BOR 7–03R:CD: C/103275 CH), concerning ths use and entry of foreign locomotives within the Customs territory of the United States during the course of our conversation on April 20, 1978.

Our ruling of February 23, 1978 issued to the District Director of Customs, Duluth, on case No. 76–3601–50038 concerned a claim for forfeiture value of $2,584,000 that was assessed against (corporation A) for 17 violations of title 19, United States Code, section 1592 (19 U.S.C. 1592). The claim was based on the unauthorized use of foreign locomotives in domestic traffic. The evidence shows that the locomotives were brought into the United States as instruments of international traffic and, as such, were exempted from the normal requirements of formal entry and payment of duty. In order to remain entitled to these benefits, the railway company was required to adhere to the provisions of section 123.12 of the Customs Regulations (19 CFR 123.12). However, our investigations established that during the period of January 11 through November 5, 1975, the railway company engaged in unauthorized point-to-point local transportation, and used foreign locomotives to switch and transfer cars brought into the United States by other locomotives. As a result, we determined that the railway company had been grossly negligent in its conduct, which resulted in seventeen violations of 19 U.S.C. 1592. However, the claim for forfeiture value of $2,584,000 was mitigated to $34,000.

Our ruling of April 4, 1978, issued to the District Director of Customs, Great Falls, in response to a request for internal advice, dated January 19, 1978, concerned a proposal for the use of foreign locomotives within the Customs territory of the United States, as submitted by (corporation B).

Corporation B sought an authorization, in connection with continuous hauls between Canada and the United States, with trains of 65 to 85 cars crossing the border, using Canadian locomotives which had not been formally entered and duty paid, to pick up cars at U.S. points on the route. The issue being whether 19 CFR 123.12, would permit such a use. We determined that although a literal reading of sections 123.12(a) (1) and (2), would appear to exclude by implication the switching of any other cars on the inward movement and the switching of cars on the outward movement (which are not to cross the boundary in the through train), this interpretation would be inconsistent with the legislative history of section 123.12, and previous

adminstrative determinations. Accordingly, our interpretation of the Customs Regulations would allow corporation B to use Canadian locomotives, on continuous hauls, to discharge and pick up rolling stock at U.S. points on the route, without formal entry and the payment of duty.

You now raise the question that the subject rulings might be contradictory, and request an interpretation and clarification. We are of the opinion that on the facts presented the two cases are clearly distinguishable.

In our February 23 ruling we were concerned with a situation in which corporation A entered Canadian locomotives as instruments of international traffic, which were "isolated" (made inoperative) at the termination or some other point on their inward/outward movement (routing), and subsequently removed from their continuous routing within international traffic. These locomotives were then used to engage in point-to-point domestic transfers (totally within the United States) of rolling stock. It is the removal of the locomotives from their continuous routing within international traffic and their use in domestic traffic, without formal entry and payment of duty, which constituted the violation of 19 U.S.C. 1592.

Broadly defined the term "international traffic" refers to the activity of importing/exporting merchandise and the transit of passengers between the United States and any other country. It is clear that the activity of corporation A in utilizing the subject locomotives to transfer rolling stock, already in the Customs territory of the United States, bears no direct relationship to the activity of importing or exporting merchandise, or the movement of passengers between this country and any other country.

However, in our April 4, 1978, ruling, corporation B merely proposed to discharge and pick up rolling stock incident to the continuous inward and outward movement (routing) of its locomotives within international traffic. There is no information in the corporation B proposal to indicate that they intend to remove the locomotives from their continuous routing within international traffic. Based on our interpretation of section 123.12, and prior administrative decisions the proposed activity of corporation B would be permissible.

We are of the opinion that the facts regarding the subject rulings are clearly distinguishable, and that the determinations are in accordance with a proper interpretation of the Customs Regulations and previous administrative decisions. We adhere to the positions expressed

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in the subject rulings. However, if you have any additional questions or comments regarding this matter do not hesitate to contact us.

(C.S.D. 79-31)

Entries: Number of Consumption or Warehouse Entries Required for Merchandise Covered by Multiple I.T. Entries

Date: June 14, 1978
File: R:E:E
306038 M

To: All Regional Commissioners of Customs and all District Directors of Customs.

To clarify existing procedures in interest of national uniformity, all district directors authorized to accept one entry for consumption or for warehouse for entire quantity of merchandise covered by several entries for immediate transportation (I.T.'s) subject to following conditions:

(1) All the merchandise was originally imported into Customs territory on same vessel or vehicle,
(2) All the merchandise is consigned to same consignee,
(3) All the I.T.'s to be consolidated were accepted on same date, and
(4) Government will not be deprived of lawful duties and there will be compliance with applicable laws and regulations.

We should point out that several I.T.'s not required when merchandise arriving on one vessel or vehicle is transported inbond to one consignee at one destination in more than one conveyance. Under such circumstances, the merchandise may be forwarded to destination as installments under one I.T. (see secs. 141.55 and 18.2 (b) and (c) of the Customs Regulations). Then only one entry for consumption or warehouse would be required at destination. If parties choose to file multiple I.T.'s when merchandise transported under such circumstances, however, one entry for consumption or warehouse required for each I.T. unless district director at port of destination under I.T. (as stated in first paragraph above and under authority of 19 U.S.C. 1484(f)) accepts one entry for merchandise covered by several I.T.'s. This clarification will be incorporated into regulations as soon as possible.

(C.S.D. 79-32)

Vessel Repair: Whether Machinery Breakdown Is a Casualty in the Absence of Extrinsic Force

Date: September 27, 1978
File: VES-13-18-R:CD:C
103510 JM

This ruling concerns the dutiability of foreign repairs to a U.S.-flag vessel.

Issue.—Are duties under 19 U.S.C. 1466 on certain repairs made to forepeak valve of the (boat name) in a foreign port remissable?

Facts.—The (boat name), a U.S.-flag vessel, arrived in Trieste in ballast to load cargo. When deballasting began, the forepeak valve was found to be stuck shut, preventing proper deballasting. The owner states that failure to correct the problem could lead to excessive stress on the hull and cause the vessel to vecome overloaded, exceeding safety margins outlined by the American Bureau of Shipping and the U.S. Coast Guard. When the crew was unable to repair the valve, foreign labor was obtained to effect the repairs.

Law and analysis.—Title 19, United States Code, section 1466, provides for payment of an ad valorem duty of 50 percent on the cost of foreign repairs to a vessel documented under the laws of the United States to engage in the foreign and coasting trade. Section 1466 provides that the Secretary of the Treasury is authorized to remit or refund such duties if the vessel was compelled, by stress or weather or other casualty, to put into such foreign port and make repairs to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination.

The representatives of the vessel state that "* * * it is assumed that the forepeak reachrod sheared as a result of the working movements of the vessel while under full headway."

CIE 1829/58 holds that a breakdown in machinery is not regarded as a casualty in the absence of extrinsic force unless the record shows that the difficulty could not have been foreseen. While CIE 1161/62 provides that the element of foreseeability is not longer dispositive, we affirm that a breakdown or failure of machinery may not be regarded as a casualty in the absence of a showing that it was caused by some outside force.

Holding.—We are of the opinion that the petitioner has not presented good and sufficient evidence that the vessel was compelled by stress of weather or other casualty, while in the regular course of her voyage, to put into a foreign port to effect repairs. Accordingly, the duty is not remitted.

(C.S.D. 79–33)

Vessel Repair: Failure of Equipment Allegedly Due to Crew Negligence

Date: October 4, 1978
File: VES–13–18–R:CD:C
103479 JL

This ruling concerns a petition requesting relief from the payment of duty on vessel repairs.

Facts.—On February 5, 1978, the vesssel put into a shipyard in Rotterdam for various repairs. The remaining item on which the owner and the regional commissioner disagree as to its dutiable status under the vessel repair statute concerns problems encountered with a General Electric turbogenerator. The owner alleges that the failure of the turbine rotor was attributable to crew negligence in that the proper water level was not maintained in the boilers which in turn produced water carryover, or priming, which eventually destroyed the rotor. Copies of the chief engineer's logs were submitted by the owner and the entry on January 26, 1978, states, in relevant part, as follows:

> Opened turbine for inspection—casualty caused by 3d STG rotor wheel wasted away area blading roots, blading came adrift, torn (1) section of reversing blading loose, all bearing either totally or partially wiped.

In its petition, the owner states, "it is our opinion that in no way can dry steam produce the condition described by the chief engineer." The owner has produced no evidence to bolster the bare assertion in its petition that crew negligence was the cause of the generator rotor failure.

The regional commissioner states that on May 24, 1978, the official in the owner's company who prepared the petition was requested to identify the crewmembers who were responsible for the alleged negligence. No crewmember was identified and the regional commissioner has assumed the damages were caused by responsible crewmembers and denied remission of duties.

Issue.—Is the petition sufficient to support a finding of a casualty caused by the negligence of responsible members of the crew?

Law and analysis.—CIE 1743/58 dated November 17, 1958, held, in part, that we generally hold that boiler failures (including boiler tubes) may be attributed to wear and tear over a period of time as distinguished from sudden fatigue and breakage and, therefore, the cost of such repairs is dutiable under the vessel repair statute. The ruling also pointed out that we have consistently held that continuing acts of negligence by a responsible member of the crew, such as the chief engineer, does not qualify as a casualty.

CIE 119/59 dated January 26, 1959, held, in part, that when a malfunction was a direct result of carelessness or mistake of judgment by a member of the crew which could not have been prevented or guarded against, the boiler failure was caused by a casualty within the meaning of the vessel repair statute.

CIE 935/60 dated June 29, 1960, held that the evidence presented by the petitioner which it is alleged leads to a conclusion that the crew was negligent in operating the boiler, was insufficient to overcome the premise that its failure was caused by normal wear and tear or lack of maintenance. The evidence presented consisted of an opinion of a marine surveyor who inspected the vessel and concluded that the apparent absence of deterioration or wear, and the absence of any hard scale or foreign matter deposits within the tubes, led him to the conclusion that the damage was the result of improper boiler operations during the period at issue.

19 U.S.C. 1466(b) provides in relevant part as follows:

> If the owner or master of such vessel furnishes good and sufficient evidence that—
>
> (1) such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipment, or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination:
>
> * * * then the Secretary of the Treasury is authorized to remit or refund such duties, * * *.

Initially, we must observe that the vessel repair statue itself requires "good and sufficient evidence" that a casualty existed before remission can be authorized. The question then becomes, was the petitioner's evidence "good and sufficient" to establish that a casualty occurred which necessitated the repairs? The petitioner's theory of casualty is that through the negligence of the crew, the proper water level was not maintained in the boilers and thus the water carried over into the area of the turbine rotor causing it to disintegrate.

It should be noted that the CIE letters cited above are indicative

of a line of administrative rulings which raise a presumption that in cases involving boiler repairs normal wear and tear not amounting to a casualty is the cause. The instant case differs from most boiler cases in that a malfunction in the boiler is claimed to be the proximate cause of the damage to a part of the vessel which, although not a part of the boiler per se, is a piece of machinery that is physically connected to the boiler housing. Even if we were to disregard the presumption raised in the long line of administrative rulings regarding boiler failures, which we do not, a question remains as to whether the petitioner has carried its burden of submitting sufficient evidence to corroborate its assertion that crew negligence caused the casualty. Further, even if the theory of crew negligence were amply supported by the evidence, has the petitioner submitted acceptable evidence tending to show that the negligence was caused by unlicensed or ordinary member of the crew, as opposed to a ship's officer or other responsible individual? Examining the record before us we find that the petitioner has merely asserted its theory without any evidence to support its contention and, when telephonically contacted by the regional commissioner on the crew negligence issue, could not offer any evidence which would identify the negligent crewmember or crewmembers. Accordingly, we are of the opinion that the petitioner has not carried its burden as mandated by the vessel repair statute to show good and sufficient evidence of the existence of a casualty which necessitated the repairs performed on the vessel on which duty has been assessed.

Holding.—We hold that the petition and supporting documents submitted are insufficient to justify remission of duty under 19 U.S.C. 1466(b)(1) and relief is, accordingly, denied.

(C.S.D. 79–34)

Value: Proper Method of Valuation for Pickup Trucks Manufactured Abroad

Date: October 4, 1978
File: R:CV:V TLL
054737

To: District Director, New Orleans.

From: Director, C & V Division.

Subject: Internal advice 8/3/77: (Name of company) trucks.

This request for internal advice has its source in R:CV:V ruling 541133 dated December 10, 1976. That ruling, which has not been

published or distributed for public consumption, is substantially set forth below:

The merchandise involved is the (name of company) pickup truck. The pickup truck is manufactured by (company X) (the manufacturer). The manufacturer in turn sells the merchandise to (company Y, a subsidiary of X), who distributes the merchandise in the home market, to third countries and to the United States, and thus in the instant transaction is the exporter. The merchandise is shipped to (company Z, also a subsidiary of X) (the importer).

During the period under consideration the merchandise was sold by the exporter to the importer at a uniform cost, insurance, and freight [c.i.f.] price to all ports of entry. Based upon two rulings issued by the Division of Appraisement and Collections on June 23 and August 1, 1973, the field personnel propose to appraise the merchandise under the authority of section 500, Tariff Act of 1930, as amended, on the basis of constructed value, section 402(d), by considering all prices and offers to points of destination in the United States where purchases have been made, deducting therefrom the actual ocean freight and insurance involved, and accepting the highest remainder as representing constructed value.

The importer contends that this method of appraisement is erroneous and suggest three alternative possibilities: (1) Cost of production as defined by section 402a(f); (2) export value as defined by section 402(b); or (3) constructed value section 402(d) of the Tariff Act of 1930, as amended, in which "ocean freight insurance and interest are not material to arriving at dutiable values." We shall deal with each of the arguments in turn.

The importers first argue that the pickup trucks in question should be considered to be included on the so-called final list (T.D. 54521). This list enumerated the articles which are to be valued under the so-called "old" value law, section 402a, Tariff Act of 1930, as amended. Relevant to the inquiry are two separate listings on the final lists, the first is for "automobiles" and the second is for "trucks," automobile, valued at $1,000 or more each." It has long been the position of the Customs Service that even taking these two separate listings together, trucks valued at less than $1,000 are not to be considered as included on the final list. See: C.I.E. 1252/58 and C.I.E. 29/71. Obviously then, from Customs viewpoint, it is important to determine the value of the truck in order to determine whether or not it is included in the final list. Section 152.21(c), of the Customs Regulations requires:

> In the case of merchandise which is described on the final list in terms of unit value, the unit value shall be computed in ac-

> cordance with section 402a, Tariff Act of 1930, as amended, for the purpose of ascertaining whether the merchandise is included on the list. If the value so computed brings the merchandise within the scope of the final list, such merchandise shall be appraised in accordance with section 402a and classified at the rate applicable to such appraised value. If the value so computed placed the merchandise outside the scope of the final list, the merchandise shall be appraised in accordance with section 402, Tariff Act of 1930, as amended, and shall be classified at the rate applicable to that appraised value.

Based upon this background, all parties involved are agreed that there is no foreign value, export or U.S. value within the meaning of those terms under the "old" value statute. The parties are also agreed that the cost of production valuation for the instant merchandise is under $1,000. At this point the importer disagrees that such valuation would take the instant trucks off the so-called final list. Petitioner bases his argument on the classification provisions of the Tariff Act of 1930. The pertinent paragraph is paragraph 369 which reads as follows:

> 369. (a) automobile trucks valued at $1,000 or more each, automobile truck and motor-bus chassis valued at $750 or more each, automobile truck bodies valued at $250 or more each, motor buses designed for the carriage of more than 10 persons, and bodies for such buses, all the foregoing, whether finished or unfinished, 10 percent ad valorem.

The importer then examines the legislative history of this provision and concludes that Congress meant the term "all other automobiles" to include trucks valued at less than $1,000. Importer then argues that the words of the final list should be construed to have the same meaning as those words have in the Tariff Act of 1930, which were in existence at the time the final list was prepared. In this regard he cites *National Carloading Corp.* v. *United States*, C.A.D. 877 (1966) and *Divers Co., Wiley* v. *United States*, R.D. 11707 (1970).

It has been the Customs Service's position that the determination of whether an article is on the final list is primarily a factual one. That is, a determination of whether or not the article involved was physically considered by the Secretary of the Treasury when he made his decision that the value of that article would be reduced by 5 percent or more by the application of "new" value statute. See: C.I.E. 791/59; C.I.E. 2038/63; and C.I.E. 1321/65.

While this office has not been able to locate the complete background study applicable to the final list, we believe that C.I.E. 1252/58 is strong evidence that trucks valued under $1,000 were not considered by the Secretary of the Treasury to be on the final list at the

time it was promulgated. We recognize that in determining final list questions the court has frequently looked to classification principles and decisions. See, in addition to those cases cited by petitioner: *A. N. Deringer, Inc.* v. *United States*, R.D. 9927 (1961), and *A. W. Fenton Co., Inc.* v. *United States* A.R.D. 313 (1973). At the same time, the court has also recognized that while a particular good may be classified under a provision whose language is identical to that as the language of the final list, factual considerations may still require that goods be considered to be valued under the "new" value statute. See, for example, *Estee Candy Co., Inc.* v. *United States*, R.D. 11719 (1970).

In the instant situation, it must also be noted the language of the final list is not identical to paragraph 369(b) of the Tariff Act of 1930. As we noted above, the final list provision is for "automobile" and 369(b) of the Traiff Act uses the language "all other automobiles." In this regard, it is interesting to note the court's rationale in *National Carloading, supra*, when the court was considering whether spark plugs should be included under the term "automobile parts, finished" on the final list.

In their discussion of the issues, the court placed great emphasis on its determination that a reasonable person would not consider spark plugs to be considered automobile parts. In the same vein we would not consider that a reasonable person reading the word "automobiles" on the final list would consider that term to include pickup trucks. Thus, we conclude, both on the basis of court decisions in this area and on the factual determinations made in earlier Customs rulings, that pickup trucks valued under $1,000 are not included on the final list.

The importer next argues that assuming the pickup trucks in question are not on the final list they should be valued under the export value provision of section 402(b). We would note first that since the exporter sells the merchandise at a uniform c.i.f. price to various ports of destination, that price cannot be used to establish export value. See: *United States* v. *Josef Mfg. Ltd.*, C.A.D. 1057 (1972). Petitioner then attempts to argue for the price from the manufacturer to the exporter as establishing export value and cites several court cases including *United States* v. *Getz Bros. & Co.*, C.A.D. 927 (1967); *R. J. Saunders & Co., Inc.* v. *United States*, C.A.D. 570 (1954); *United States* v. *S. S. Kresge Co.*, C.A.D. 39 (1939); and *Melba B. Rodriguez* v. *United States*, R.D. 7752 (1949). In our view all of these court decisions are distinguishable from the instant case.

The facts in all of those decisions indicated that the manufacturer did in fact freely offer his merchandise for export to the United States. That fact simply is not present in the instant situation. The

evidence clearly indicates that the manufacturer sells the merchandise only to the exporter for distribution in the home market, to third countries and to the United States. It has long been our position that where merchandise can be purchased only through a reseller on his own account, it is that price which should be used to establish the export value for the merchandise. For a more detailed discussion of this position see PRD 76–5, copy attached. Consequently, it is our opinion that export value cannot be established by the sale from the manufacturer to the exporter, and, as noted above, export value cannot be established by the sale from the exporter to the importer. While there is no discussion on this point, it appears that both parties agree that U.S. value is not applicable to the instant situation.

We come then to the final issue, namely, the proper determination of constructed value under section 402(d) of the Tariff Act. As indicated above, Customs field personnel, based on 1973 Customs rulings, propose to appraise the merchandise on the basis of the exporter's uniform c.i.f. price deducting therefrom the actual ocean freight and insurance involved, and accepting the highest remainder as representing constructed value. The importer first contends that this method of appraisement is erroneous on its face and therefore should not be accepted as representing the proper valuation for the merchandise. We and the courts are in agreement with this contention. In *Greb Industries, Ltd.* v. *United States*, R.D. 11691 (1970) the court was faced with section 500 constructed value appraisements based upon sales prices and concluded,

> At the outset, it is apparent that these appraised values which were ostensibly determined on the basis of constructed value pursuant to section 402(d) were in utter disregard of the statutory standards for constructed value as prescribed by that section and are thus erroneous on their face.

In *Ellis Silver Co., Inc.* v. *United States*, R.D. 1688 (1969), affirmed A.R.D. 293 (1971), affirmed C.A.D. 1100 (1973), the court was considering section 500 constructed value appraisements arrived at by making adjustments to an invoice price and was forced again to conclude:

> Unfortunately, the method used by the Government to determine the so-called constructed values was in utter disregard of the statutory formula prescribed by Congress * * *. Taking into consideration that the appraiser could use all reasonable ways and means * * *. I find that the constructed value appraisements are erroneous.

In addition to these decisions we would also note: *Given International, Inc.* v. *United States*, C.D. 4624 (1975); *United States* v. *A. N.*

Deringer, Inc., A.R.D. 127 (1961), appeal dismissed, 48 CCPA 169 (1961); *A. N. Deringer, Inc., et al.* v. *United States*, A.R.D. 182 (1965), affirmed C.A.D. 890 (1966). It should also be noted that this is not a new concept to Customs law, see for example, *Zigmund Loew* v. *United States*, R.D. 4529 (1939). From the above, it is clear to us that the contemplated appraised values were not properly determined within the statutory guidelines. We must now consider whether the importer has advanced an alternate value which does meet the statutory requirements.

The importer argues that the cost elements supplied by X to determine cost of production under the "old" value statute should be used for the determination of constructed value. In this regard, it must be observed that these cost elements were accepted by Customs for the determination of cost of production and were used in the determination that the subject merchandise was not included on the final list and therefore should be valued under the "new" value statute. Since such a finding was a necessary prerequisite to the current contemplated constructed-value appraisement under consideration, the figures submitted by X as to the actual amounts of material and fabrication costs, general expenses, and profit would be considered by the court to be presumptively correct as a "subsidiary finding." See *Control Data Corp.* v. *United States*, C.A.D. 1132 (1974).

We would also observe on this point, that X has been submitting cost-of-production data through the U.S. Embassy in Tokyo since at least 1960 and to the best of our knowledge the verifications which have been conducted on that data have failed to reveal any discrepancies. The question then becomes whether data submitted to establish cost of production can also be used to establish constructed value. On this point, the importer suggests, and we agree, that the language under constructed value and under cost of production describing the standards for determining the cost of materials and fabrication is virtually identical.

The only major difference that we would note in the language is that the "new" value statute specifically excludes from the cost of material any internal tax on materials remitted or refunded upon exportation. Insofar as this might be applicable to the situation, it only means that the submitted material costs might be higher than required under the constructed-value statute. Therefore, the acceptance of this cost clearly protects the revenue and we see no reason to reject the submitted material costs. Additionally it should be noted that the language concerning packing costs is also virtually identical in both standards of valuation.

The area where one finds more significant differences in the statutory language concerns the additions for general expenses and profit. Commenting on this problem the August 1, 1973, letter to importer's counsel indicated:

> As you know, the primary difference between costs of production under section 402a(f) and constructed value under section 402(d) is that the amount for general expenses and profit under the latter is that which is usually reflected in sales of merchandise of the same general class or kind as the merchandise undergoing appraisement. The minimum of 10 and 8 percent used in cost of production can not be used in lieu of section 402(d)(2).

Concerning this position we would first note that the cost-of-production information submitted by the importer indicated the actual general expenses and profit and separately indicated the amounts to be added to meet the statutory minimums of the "old" law when that was appropriate. Therefore it does not appear to us it is necessary to use the 10- and 8-percent minimums under cost of production in lieu of the expenses required by section 402(d)(2).

It must also be observed at this point, that in the appraisement of motor vehicles it has been the practice of the Customs Service to accept the instant manufacturer's actual general expenses and profit as being those usually added. See: Internal advice request 70/75. Petitioner also references the so-called due-diligence test. Under this test the courts have concluded that when the instant manufacturer diligently attempts to ogtain the general expenses and profit of his competitors and the competitors refuse to provide that information, it is then permissible to use the instant manufacturer's actual expenses as being those which are usual. See *United States* v. *Henry Maier*, T.D. 46378 (1933); *United States* v. *Jovita Pereze*, C.A.D. 407 (1949); *John V. Carr & Son, Inc.* v. *United States*, C.A.D. 860 (1965); *Ercona Camera Corp.* v. *United States*, A.R.D. 207 (1966).

The file reflects that the importer attempted to gather the information on the general expenses and profit of its competitors and that they refused to supply that information. Given this fact and the other issues discussed above, we believe that the following language from the *Given* case is especially pertinent. "Having demonstrated the incorrectness of the appraisement it remained for plaintiff to prove its own claimed costs of production. This is accomplished by the uncontradicted testimony of (the) Director of the Export Department of the manufacturer * * *. I am further convinced that the refusal of other manufacturers to reveal their addition for profit permits the use of this manufacturer's actual addition for profit as an element of its costs of production." In short, our view of the instant file is that the uncontradicted evidence gives to us the petitioner's actual costs

of manufacture and allows the use of the instant manufacturer's profit and general expenses.

There is one final issue that needs to be discussed. Since the transaction in question is between related parties, section 402(g) of the Tariff Act, would allow us to disregard the manufacturer's actual cost if it were demonstrated that these costs did not "reflect the amount usually reflected in sales" between unrelated parties. It must be observed, however, that transactions cannot be disregarded simply because the parties are related. On the contrary, it is necessary to have persuasive evidence that the element of value under consideration is not that "usually reflected." See *Control Data Corp.* v. *United States*, C.A.D. 1132 (1974); *J. L. Wood* v. *United States*, C.A.D. 1139 (1974); *United States* v. *Geigy Chemical Corp.*, C.A.D. 1155 (1975); *Brown, Alcantar & Brown, Inc.* v. *United States*, A.R.D. 306 (1972). In addition to these court decisions, rulings issued by this office also support this view. See our letter of July 28, 1976, R:CV:V IS 540928, copy attached. In this regard, we find no evidence in the file, persuasive or otherwise, which would warrant or even argue for the disregarding of the importer's actual profit under section 402(g).

The facts which we have been able to locate concerning the importers' profit indicate first, that the profit figure was accepted for the cost-of-production determination. Second, foreign verifications of X's cost-of-production data have failed to uncover any discrepancies. Third, over the past year this office has been involved in an extensive review of automobile appraisements and we would note from that review that profits below the statutory 8-percent minimum found in the "old" value law are certainly not uncommon in the automobile industry. Fourth, we requested from Duty Assessment Division, and received from them, copies of X's cost-of-production submissions for the time periods beginning June 1970, December 1970, and June 1971. An analysis of this information indicates that the importer's profit on the instant merchandise compares favorably with the profit that the importer receives on other motor vehicles.

As was noted above, the importer did have a competitor during this period selling pickup trucks of the same type. However, it should be noted concerning this competitor that we would still be dealing with related party transactions, that Duty Assessment Division has not been able to locate any cost figures prior to 1972 for the competitor (which cannot be used for the time period in question) and finally, if the competitor's profit were higher than the importer's, it would be necessary to demonstrate that the competitor exported the largest number of units of this type of merchandise in order to use his profit as being that which is "usual." We mention this point only to indicate

that if Customs field offices have the competitor's profit information for the period in question, and if the competitor was the largest exporter of the type of merchandise in question, it would be possible to use the competitor's profit and general expenses in lieu of the petitioners actual general expenses and profit.

On the basis of the file submitted for our review, and on the basis of the above rationale, it is our conclusion that the instant merchandise should be appraised on the basis of constructed value under section 402(d), Tariff Act of 1930. This constructed-value appraisement should be based on the cost information supplied by X. The general expenses and profit should also be based on the figures supplied by X unless it would be possible for field personnel to develop the profit and general expense information of X's competitor and if X's competitor were the largest exporter of the type of merchandise in question.

Your position is that export value cannot be based on the f.o.b. invoice values since the exporter only sells to the U.S. buyer at c.i.f. and I prices. However, you believe export value can be arrived at by deducting the actual ocean freight, insurance charges, and interest from the c.i.f. and I price and then using the highest netted price on all shipments for a representative period. You indicate that determination must be made whether the highest net price represents statutory export value, that is, does it fairly reflect market value? You note T.D. 76–118 which states when "necessary market evidence is not available, that is, when there are sales only to related selected purchasers, or sales only to one unrelated selected purchaser, the Customs Service is required to look to whatever other evidence might be available for comparison purposes." The decision indicates that one type of comparison evidence is constructed value/cost of production. You state that when the netted invoice value in the instant case is compared with the submitted cost-of-production figures, they appear to be equivalent, and C.S.A. letter No. 44 provides that in such cases export prices fairly reflect the market value and are representative of export value, section 402(b).

You state that the only alternatives to export value are U.S. value and constructed value. No figures are available for U.S value and you expressed doubts as to whether accurate figures could be obtained this long after the subject transaction. This leaves only constructed value.

You argue that constructed value should only be arrived at by authority of section 500 in extreme cases, but you feel this is one. Section 500 of the Tariff Act is the means provided for when all the conventional means for appraisement are not acceptable to the import

specialist. You do not believe the importer can successfully challenge the use of section 500 of the Tariff Act to find constructed value, since it is his inaccurate figures that make all other methods of statutory appraisement inappropriate.

In summary, you argue first for export value and alternatively for constructed value, but based on CIF and I price with allowable deductions, as the proper basis of appraisement in this instance.

The Duty Assessment Branch, New York Seaport has by memorandum dated December 12, 1977, submitted their comments in support of your arguments. They, as well as your office, use as a basis for their argument that the case of *U.S.* v. *Josef Mfg. Ltd.*, C.A.D. 1057, is not on point. Further, New York has submitted detailed information attempting to prove that based on T.D. 76–118 the c.i.f. price less the nondutiable charges fairly reflects the market value. In addition, New York proposes that the next basis of appraisement would be constructed value, and that to establish an amount to be added for general expense and profit, we must go back to Y's Japan transaction. You suggest that if their c.i.f. and I prices to various ports by various transportation should be adjusted by deducting the various charges, the remainder is their net selling price. You continue that comparison of the selling prices with the costs will indicate the profits realized. A statistical record, by individual model, of the number of X trucks sold at a uniform price by Y to Z and the profit percentages realized from such sales would indicate the profit realized on the greatest aggregate quantities sold. This markup added to the already accepted costs and general expenses submitted with the original COP would be the statutory constructed value. The necessary information on profit had been previously requested.

This office has carefully reviewed not only the recent submissions from your office and New York, but our ruling 541133 as well. We remain of the opinion that ruling 541133 was appropriately decided. Therefore, it remains our conclusion that the instant merchandise should be appraised on the basis of constructed value under section 402(d), Tariff Act of 1930. This constructed value appraisement should be based on the cost information supplied by the importer. The general expenses and profit should also be based on the manufacturer's actual general expenses and profit unless it is possible for field personnel to develop the profit and general expense information of the manufacturer's competition if they were the largest exporter of the type of merchandise in question.

While we do not intend to repeat our previous discussion of the issues raised therein, we should like to point out that subsequent to our decision on ruling 541133 and the initiation of this internal advice

request, the U.S. Court of Customs and Patent Appeals rendered its decision in the case of *D. H. Baldwin Co.* v. *United States*, C.A.D. 1208 (1978). Therein the court in concluding that reference to costs of production, home market sales, and third country sales would be improper for consideration in making the determination whether the sales price between selected purchasers "fairly reflected the market value" within the meaning of section 402(b)(1)(B), Tariff Act of 1930, as amended, emphasized that consideration must be given to whether the sales were at arm's length and any evidence showing the relationship between the parties. Inasmuch as it is clear that the importer was a selected purchaser under this provision of law and the submitted record does not establish that the sales between the exporter and importer were at arm's length, we have no basis for establishing export value.

(C.S.D. 79-35)

Entry: Petroleum From Deepwater Ports

Date: October 13, 1978
File: VES-3-15 R:E:E
305864 M

This ruling concerns the entry of petroleum from a deepwater port.

Issue(s).—When is petroleum lightered from a vessel to a deepwater port and subsequently piped to the U.S. mainland considered to have been landed in the United States and subject to duty?

Facts.—A "deepwater port" is defined as any fixed or floating man-made structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for loading or unloading and further handling of oil for transportation to any State. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. "Oil" is defined as "petroleum, crude oil, and any substance refined from petroleum or crude oil." Presently, there are two deepwater ports off the coast of the United States. Petroleum is lightered from an incoming vessel to a deepwater port and is subsequently piped from the deepwater port to the United States mainland. A ruling is requested as to when such petroleum is subject to duty.

Applicable law, Regulations, court cases, and/or other precedents.—The Deepwater Port Act of 1974 (33 U.S.C. 1501–1524).

Descussion.—Section 19(d) of the Deepwater Port Act of 1974 (19 U.S.C. 1518(d)) provides that, except for foreign articles used in the construction of the deepwater port, Customs laws do not apply to any merchandise brought into a deepwater port. Thus, except for the one exception noted above, this act does not extend the jurisdiction of the Customs merchandise entry laws to a deepwater port. Therefore, for Customs purposes such petroleum is not considered to have landed in the United States and subject to duty until it arrives within the territorial waters of the United States. This means that until the petroleum arrives in the United States proper through the pipeline, it can be pumped out of the pipeline or taken off the deepwater port and exported without the necessity of Customs supervision.

Holding.—Petroleum lightered from a vessel to a deepwater port is not subject to duty, until it arrives within the territorial waters of the United States with the intent to unlade.

(C.S.D. 79–36)

Marking: Trousers Made in Hong Kong Labeled "Styled in London"

Date: July 24, 1978
File: MAR–2–05–R:E:R
709181 AB

This is in reply to your letter of June 7, 1978, requesting a ruling on whether the enclosed label complies with section 134.46 of the Customs Regulations. You indicate that the label is designed to be attached to the outer waistband of cotton denim and corduroy trousers manufactured in Hong Kong.

Section 134.46 of the Customs Regulations (19 CFR 134.46) requires that whenever the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appears on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, and in at least a comparable size, the name of the country of origin preceded by "Made in", "Product of," or other words of similar meaning.

The U.S. Customs Service is of the opinion that this label is unacceptable since it does not satisfy the marking requirement of section 134.46 of the Customs Regulations, and hence section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304). The "Styled in London" marking is potentially misleading to an ultimate purchaser.

285–732—79——5

It appears prominently across the label in contrasting colors, and its letters are two times larger than the uncontrasted letters in the "Made in British Hong Kong" marking. In addition to the markings not being of comparable size, it is not clear that they would be considered to be in close proximity to each other, as required by section 134.46 of the Customs Regulations.

(C.S.D. 79-37)

Classification: Gas Detector Tubes and Pumps

Date: July 24, 1978
File: CLA-2:R:CV:MA
056156 LXL

In your correspondence of April 6, 1978, you request reconsideration of the classification of gas detector tubes and pumps. A sample of a detector tube and explanatory materials were furnished.

You state that the detector tubes are calibrated devices for checking and measuring gases and vapors in air and that they check only for one specific gas or vapor. You also state that the gas detection pump and the different detector tubes are a unit and must be used together. The weight of the chemical reagent in proportion to the average weight of a detector tube is 1:20. The value of the chemical reagent versus the value of an average detector tube is 1:70. The chemical component though very important appears to be very minute.

The "Detector Tube Handbook" lists approximately 106 different tubes, the name of the chemical to be tested for, the number of strokes of the pump required, the reaction principle involved, cross sensitivity of the tube, a description of the tube, and the range of measurement in parts per million (p/m).

You suggest that there should be no difference in classification of the pumps or detector tubes whether they are imported together or separately. TSUS general interpretative rule 10(ij) states, a provision for "part of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part." Accordingly, we take the position that the pumps are classifiable under the specific provision for other air pumps in item 661.15, TSUS, and are dutiable at the rate of 5 percent ad valorem, when imported separately.

We have reconsidered the classification of the gas detector tubes which have been classified under the various provisions for chemicals, and have concluded that the gas detector tube is not properly classifiable as a "chemical mixture." The glass gas detector tube has fused

end tips, a recording surface where the identifying color change takes place, and a calibrated scale which gives the p/m reading of the concentration of the chemical.

The gas detector tubes shall be classified under the provision for gas analysis apparatus and other instruments or apparatus for physical or chemical analysis, and parts thereof, in item 711.88, TSUS, and are dutiable at the rate of 11 percent ad valorem. ORR ruling 138–70 of February 27, 1970, is distinguished.

When the pumps are imported in kits with the detector tubes, they will be classifiable as an entirety under the provision for gas analysis apparatus and parts thereof, in item 711.88, TSUS, with duty at the rate of 11 percent ad valorem.

Any letters inconsistent with the views expressed here are hereby revoked.

(C.S.D. 79–38)

Temporary Importation Under Bond: Foreign Aircraft Repaired in United States

Date: July 25, 1978
File: VES–4–03–R:CD:C
102278 JL

To: Regional Commissioner of Customs, Houston, Tex.

From: Chief, Carrier Rulings Branch.

Subject: Temporary importation bond requirement for foreign aircraft repaired in the United States. Your memorandum March 30, 1978: AIR–4–07–0:1 xCON–9.

This is in reference to the above-noted memorandum which itself refers to our memorandum of February 1, 1978 (103233 CR, 102773 AIR–4–07).

You ask when a foreign aircraft is brought into the United States under item 864.05, TSUS, specifically to have repairs or maintenance work performed, and the operator does not so advise Customs and fails to enter the aircraft on a temporary importation bond is the subject to a penalty and the aircraft subject to seizure under the provisions of 49 U.S.C. 1474 and 19 CFR 6.11, or 19 U.S.C. 1592.

Initially we must observe that when a foreign aircraft is brought into the United States specifically to have repairs or maintenance work performed, if the operator does not so advise Customs and does not enter the aircraft under a TIB, the aircraft could not have been considered brought into the United States under item 864.05, TSUS.

Item 964.05, TSUS, provides for the adminission of articles into the United States for repairs, alterations, or processing free of duty, under bond for their exportation. It is in no way a mandatory entry, and its use is entirely discretionary with the importer. The question then becomes, what mandatory entry should have been effected for this aircraft?

As we noted in our February 1, 1978, memorandum, section 6.2(d)(1), Customs Regulations, requires that when a foreign private aircraft is brought into the United States from Mexico specifically to have repair and maintenance work performed, it is subject to Customs entry. Actually, section 6.2(d)(1) states, "aircraft are subject to Customs entry when brought in for repairs or otherwise treated as imported articles." Therefore, under the factual situation you present, the foreign aircraft brought into the United States specifically to have repairs or maintenance work performed is in violation of section 6.2(d)(1) of the regulations when no consumption entry is filed.

49 U.S.C. 1474(a) provides in relevant part as follows:

> Any person violating any customs regulation made under section 1509(b) of this title, or any provision of the customs or public-health laws or regulations thereunder made applicable to aircraft by regulation under such section shall be subject to a civil penalty of $500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture as provided for in such customs laws, which penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury. in case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien against the aircraft * * *.

19 U.S.C. 1592 provides in relevant part as follows:

> If any consignor, seller, owner, importer, consignee, agent, or other person or persons enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of false or fraudulent practice or appliance whatsoever, * * * without reasonable cause to believe the truth of such statement, * * * whether or not the United States shall or may be deprived of the lawful duties, or any portion thereof, accruing upon the merchandise, or any portion thereof, * * * such merchandise, or the value thereof, to be recovered from such person or persons, shall be subject to forfeiture, * * *.

In considering the hypothetical situation you present, the operator does not advise Customs that the aircraft is brought into the United States specifically to have repairs or maintenance work performed. His failure to make entry for the aircraft is in violation of section 6.2(d)(1) of the regulations, which is authorized by title 46, United States Code, section 1509(b)(3). Accordingly, 49 U.S.C. 1474(a) is operative so that the operator of the aircraft is subject to civil penalty of $500, said aircraft is subject to seizure, and forfeiture, and the penalty thereof is a lien which may be collected by proceedings in personam against the person subject to the penalty; and since the penalty constitutes a lien, by proceedings in rem against the aircraft. See sections 6.10 and 6.11 of the regulations.

Insofar as the application of 19 U.S.C. 1592 to the situation under consideration is concerned, the statute requires, in order to be operative, an entry or an attempt to enter into the commerce of the United States imported merchandise by means of a fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or oral. As discussed above, the Customs laws applicable to merchandise, insofar as the requirement of entry is concerned, have been extended to aircraft brought into the United States specifically for repairs through the vehicle of section 6.2(d)(1) of the regulations under the authority granted in 49 U.S.C. 1509(b)(3). Such aircraft, then, are treated just as if they were imported merchandise under the Customs laws. Therefore, 19 U.S.C. 1592 could be applicable provided a false declaration or statement is made in connection with the entry of the aircraft. However, it is established policy where a specific statutory provision exists for the same violation, section 1592 should not be utilized when the same sanctions are available under the more specific statute.

You also ask whether the sanction provided in section 10.36a of the regulations which denies the privilege of bond without surety on future TIB's is the only one available against the aircraft or operator when aircraft entered under TIB without surety are exported without Customs supervision. You also ask in this connection if liquidated damages have been assessed for failure to comply with the provisions of the bond but no collection has been effected because there is no surety and the aircraft operator is outside the United States, may the aircraft be detained under the provisions of 19 U.S.C. 1594 on its subsequent arrival in the United States. If so, you ask can the aircraft be detained if it were being operated on a subsequent arrival by a

different individual. Last, you ask if another aircraft operated by the same violating individual can be detained on a subsequent arrival.

Insofar as 19 U.S.C. 1594 is concerned, it states in relevant part as follows:

> Whenever a vessel or vehicle, or the owner or master, conductor, driver, or other person in charge thereof, has become subject to a penalty for violation of the customs-revenue laws of the United States, such vessel or vehicle shall be held for the payment of such penalty and may be seized and proceeded against summarily by libel to recover the same:

You will note that a violation of the Customs-revenue laws must be present for this section to become operative. The temporary importation under bond provisions are not Customs revenue laws. 19 U.S.C. 1594 is therefore not available as authority for seizing an aircraft for a breach of a temporary importation bond. For this reason, in the hypothetical situation you present and, assuming the U.S. attorney declines to proceed to collect liquidated damages under the bond through judicial action, the only sanction available to you is that provided in section 10.36a of the Customs Regulations.

We thank you for your comments pertaining to foreign private aircraft brought into the United States specifically to have repair and maintenance work performed. Your suggestion that section 6.2(d)(1) of the Customs Regulations should be changed has been noted and we are forwarding a copy of your memorandum to the Inspection and Control Division at headquarters in order that they might consider whether an amendment would be desirable.

(C.S.D 79-39)

Drawback: Accelerated Drawback Prior to Initial Audit

Date: July 27, 1978
File: DRA-1-09 R:CD:D
209233 B

You asked in your letter of July 6, 1978, whether accelerated drawback payments may be made prior to initial audit, assuming all conditions set out in the drawback laws and regulations are satisfied.

Assuming compliance with the laws and rgulations, accelerated payments be made prior to audit, under the provisions of 19 CFR 22.20a.

(C.S.D. 79–40)

Drawback: Whether Testing and Assembly of Wristwatches is a Manufacture or Production

Date: August 1, 1978
File: DRA–1–09–R:CD:D
208833 MM

Re Glycine sales and service center—eligibility of drawback; memorandum from your drawback liquidation branch dated March 1, 1978.

REGIONAL COMMISSIONER OF CUSTOMS,
Chicago, Ill. 60603

DEAR SIR: You ask whether the testing and assembly of wristwatches is a maufacture of production for drawback purposes under the following circumstances.

Watch movements are removed from the cases in which they are imported. The movements are checked electronically and adjusted in four positions to a very close tolerance. Then the movement is returned to the case, which is sealed and checked for water resistance. A metal bracelet is fitted to the watch case for the first time, and the completed watch is boxed with instructions and guarantee papers. We assume the end product is a complete watch.

Manufacture or production is defined for drawback as the process or processes which, through labor and manipulation, change or transform an article or articles into a new and different article having a distinctive name, character, and use. See, for example, *Anheuser-Busch Brewing Association* v. *United States*, 207 U.S. 556 (1907). This definition requires consideration of both the process and the result. Unless there is a new and different article having a distinctive name, character, and use, there is no product of manufacture or production. Unless the process itself requires significant effort, measured in terms of capital, labor, and complexity, the change is too insignificant to be considered a manufacture or production. All factors must be evaluated with reference to specific facts.

In this case, the end product is a watch, whereas the imported articles were watch parts. The watch is a new and different article. It has a specific name, character, and use different from its component parts unassembled or only partly assembled. Moreover, the testing is complex and requires significant labor and special facilities.

Accordingly, the assembly and testing in this case constitutes a manufacture or production for drawback purposes.

(C.S.D. 79–41)

Foreign Trade Zones: Dutiability of Chemicals Manufactured From Components Imported From Communist Country

Date: August 2, 1978
File: FOR–1–R:CD:D
209132 S

You asked whether sulfathiazole sodium and D-pseudoephedrine base prepared in a foreign trade zone from imported sulfathiazole and D-pseudoephedrine hydrochloride, respectively, is dutiable at the column 1 rate when transferred to the customs territory for consumption.

Both sulfathiazole and the D-pseudoephedrine hydrochloride, chemicals not soluble in water, are imported from Communist China directly into the foreign trade zone, where they are assigned the status of foreign nonprivileged merchandise. The preparation of sulfathiazole sodium, the soluble form of the chemical, involves a multistep process that is the subject of a patent. The D-pseudoephedrine base is precipitated from a caustic soda solution in a less complex operation. Each process requires a significant investment of capital and labor.

Nonprivileged foreign merchandise is subject to appraisement and tariff classification in its condition at the time of its constructive transfer to customs territory and at the rate of duty in force at the time of its entry for consumption. See section 146.48(e) of the Customs Regulations. When a new and different product having a different name, character, and use is manufactured or produced in a foreign trade zone, the product is considered a product of the zone rather than of the country of origin of the raw materials from which it was made.

The sulfathiazole sodium and D-pseudoephedrine base are new and different products in the chemical sense. Each has a different name, character, and commercial use. Therefore, the processing in the foreign trade zone is, in this case, a manufacture or production.

Accordingly, the sulfathiazole sodium and D-pseudoephedrine base prepared in the zone are subject to tariff classification and appraisement in their condition at the time of transfer to the customs territory. They are dutiable at the column 1 rate in force at the time of entry.

(C.S.D. 79–42)

Drawback: Designation of Electrical Steels With Different M Factors

Date: August 3, 1978
File: DRA–1–09–R:CD:D
209245 B

This is in reply to your letter of July 13, 1978, wherein you asked us to supply appropriate language for inclusion in your client's drawback statement designating certain M factor electrical steels.

In our letter of June 19, 1978, on the same subject, we allowed your client to designate steels with different M factors, provided (1) only those steels having identical M factors were substituted for one another, or (2) the exported transformers were produced without regard to the M factor of the steel used in production.

Evidently, your client wishes to take the latter option. Therefore, language should be contained in the statement stipulating that drawback will be limited to the value of the domestic steel used in production, similar to the following:

> Transformers which are exported will be produced without regard the to M factor of the steel, and drawback will be determined by the value of the domestic steel used in production having the highest (least efficient) M factor, and the amount of duty which would have been assessed on that steel had it been imported until all steel having the highest M has been designated. Thereafter, the next lowest M factor steel may be designated, and so on, in a manner similar to the procedure set out in section 22.4(f) of the regulations.

(C.S.D. 79–43)

Entry: Shipment of Alaskan Crude Oil to Panama for Storage Prior to Shipment to United States

Date: August 7, 1978
File: ENT–1–01 R:E:E
305789 M

This is in reply to your letter of March 30, 1978, in behalf of (A, an American corporation), concerning the transshipment of Alaskan crude oil through the Panama Canal to Atlantic and Gulf ports in the United States, or to Puerto Rico, or to the Virgin Islands.

In our letter of November 15, 1977 (see T.D. 78–341), we ruled that the transshipment of Alaskan crude oil by VLCC from Valdez,

Alaska, to a storage vessel serving as a floating transshipment terminal off the coast of Panama, and its subsequent transfer to a lightering vessel which would transport the oil to Atlantic or Gulf ports in the United States or to Puerto Rico is an intransit movement and is therefore not an "exportation" within the Customs definition set forth in section 113.55 of the Customs Regulations. You request that we modify that ruling in the following manner:

(1) to permit the use of permanent onshore facilities in Panama to serve as the storage place for the oil prior to its transfer to lightering vessels for the United States or Puerto Rican port,

(2) to permit the use of documentation required by the Department of Commerce, as a substitute for the documentation originally proposed,

(3) to include the Virgin Islands of the United States in our ruling, and

(4) to allow Alaskan oil to be taken to the Virgin Islands of the United States by foreign-flag vessels, which might have a residue of foreign oil collected on the sides of the wall of the tanker.

You point out that under the present agreements dated September 26, 1977 (A Corp.'s) wholly-owned subsidiary (B Corp.), is responsible for the overall administration, management and financing of the construction and operation of the onshore facilities. (C Corp.) which is a 60-percent owned Panamanian subsidiary of (B Corp.) will handle the day-to-day operation of the onshore facility. (C Corp.) will be originally 25 percent owned by (D Corp.), a public corporation of the Government of Panama, who may after several years acquire all of the stock in (C Corp.) and the remaining 15 percent is jointly divided between two American corporations.

During the terms of the agreements (C Corp.) "shall have the exclusive right to conduct, on the Pacific coast and waters of the Republic of Panama, petroleum transshipment activities, including offshore transshipment activities." provided it commences physical construction of the onshore facilities within 12 months after the date of the agreement and the facilities must have commenced petroleum transshipment within 30 months from the date of the agreements (C Corp.) pays to the Republic of Panama a royalty with respect to the petroleum transshipped through the onshore facilities based on average daily number of barrels transshipped and the net revenues of the company. Since (C Corp.) is a Panamanian corporation, it is also subject to the Panamanian income tax. With certain exceptions, the terms of the agreements are for a period of 20 fiscal years provided physical construction of the facilities is begun within 12 months after the date of the agreements and the first transshipment of oil through the facilities occurs within 30 months from the date of the agreements.

After thoroughly reviewing the agreements dated September 26, 1977, we are satisfied that under its present corporate structure the onshore facilities would operate similar to a Customs-bonded warehouse in the United States and that the petroleum delivered to those facilities would be for transshipment purposes. In addition, the quarterly reports you are required to submit to the Department of Commerce provide a good trail of the Alaskan oil and these reports must show that the oil is in fact ultimately delivered to the United States, after passage through the Panamanian facilities. Therefore, under the present corporate setup and because of the documentation requirements of the Department of Commerce, we agree to modify our ruling of November 15, 1977, to permit the use of the onshore facilities as part of the intransit shipment from Alaska to the East and Gulf coasts of the United States or Puerto Rico. Since these onshore facilities will be in Panama, VLCC's going there from Valdez will be required to clear to a foreign port as required by title 46 United States Code, section 91, and properly documented U.S. coastwise qualified vessels lightering oil from Panamanian facilities will be required to report arrival and enter at their port of destination as required by title 19, United States Code, sections 1433 and 1434.

Although the quarterly reports submitted to the Department of Commerce may show a complete trail of the oil, Customs is geared to handle importations on a shipment by shipment basis. To establish duty-free treatment of the oil, it is necessary that you submit documentation to Customs that would establish that the oil left Alaska and was transported to the port of entry via storage vessel or an onshore facility. Therefore, we must receive at the U.S. port of departure a modified outward manifest showing the quantity of oil laden on the vessel in Alaska.

Furthermore, we must receive at the U.S. port of entry an inward manifest showing the quantity of oil being brought in and the particular onshore facility or facilities and/or storage vessel or vessels from which the transporting vessel received the oil.

The Virgin Islands of the United States, although an insular possession, is not part of the Customs territory of the United States. (See general headnote 2 of the Tariff Schedules.) Therefore, as far as Customs is concerned, the movement of oil from Valdez, Alaska, via storage vessel or onshore facilities and its subsequent transfer to lightering vessels for transport to the Virgin Islands would not be considered an intransit movement. The oil in question, since it is an American product, when entering the Virgin Islands would be free of duty under 48 U.S.C. 1395. However, the oil would be subject to the Virgin Island entry of merchandise requirements under Virgin Island law 64–1914 and the ordinance of August 6, 1914.

Since the Virgin Islands are not subject to the coastwise laws, the Customs Service has ruled that title 46, United States Code, section 883, would not prohibit the use of foreign vessels for the transportation of Alaskan oil to the Virgin Islands for processing or refining there and subsequent oncarriage of the new and different products to coastwise points. The District Court for the District of Columbia has upheld this position in *American Maritime Association et. al.* v. *Blumenthal et. al.*, civil action No. 77–1508. However, this decision has been appealed to the U.S. Court of Appeals for the District of Columbia (Nos. 77–1934, –1962, –1970) and the case is still pending.

(C.S.D. 79–44)

Copyright Restriction: Application of "Manufacturing Clause" to "Kyoto, Japan's Ancient Capital," Printed and Bound in Italy

Date: August 7, 1978
File: CPR–5–R:E:R
709141 0

To: Chief, Duty Assessment Branch 6/8, New York Seaport.

From: Director, Entry Procedures and Penalties Division Headquarters.

Subject: Admissibility of imported copyright protected books; your memorandum of May 24, 1978.

In your memorandum, you asked for our assistance in determining whether or not a shipment of the book entitled "Kyoto, Japan's Ancient Capital," printed and bound in Italy, entered at the port of New York under entry No. 78–273399, dated March 10, 1978, may be imported and distributed in the United States by Newsweek, an American corporation, without violation of the "manufacturing clause" of the Copyright Revision Act of 1976 (17 U.S.C. 601–603). In general, section 601(a) of the Copyright Act prohibits the importation and public distribution in the United States of a work authored by a U.S. national or domiciliary consisting preponderantly of nondramatic literary material that is in the English language, unless the portions consisting of such material have been manufactured in the United States or Canada.

The work is a 172-page historical treatise concerning "Kyoto, the Ancient Capital of Japan," with many beautiful illustrations. A sample was submitted which bears the copyright notice in the name of the Italian publisher, Arnoldo Mondadori Editore, S.p.A. The American

corporation referred to above prepared the volume under a written agreement with the Italian publisher under which the copyright ownership is retained by the Italian firm. However, the American firm was given the right to sell and distribute the work in the United States without payment of royalties, and the right to a royalty payment for each copy printed in the Italian language. The book is part of a series of books entitled "Wonders of Man." The same agreement obtains to the other volumes in the series.

The first question you presented concerns the matter of "preponderance." We are of the opinion that the narrative, which comprises the copyright-protected nondramatic literary material, plainly exceeds the nonliterary material in importance. In this case, the nonliterary material in importance. In this case, the nonliterary material merely material merely illustrates and supplements the textual narrative or exposition. Nevertheless, in view of our decision with regard to your second question, the work would not be required to be manufactured in the United States.

Your second question concerns authorship. In view of the written agreement under which the work was specially ordered or commissioned by the Italian firm, we are of the opinion that the work may be considered to be a "work made for hire" within the definition of that term as set forth in 17 U.S.C. 101. The definition covers a work specially ordered or commissioned for use as a contribution to a collective work pursuant to an agreement that the work shall be considered a work made for hire. A "collective work" by definition (17 U.S.C. 101) is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole. In this case, we note that the work in question is part of a series, "Wonders of Man," which, in our opinion, falls within the above-cited definition of "collective work." Furthermore, there are many court decisions that have held that the "work for hire doctrine" is applicable in situtations where a work is produced by an independent contractor at the instance and expense of his employer. The employer is presumed to have the copyright unless a contrary intention is shown.

For the above reasons, we are of the opinion that the work in question is a "work made for hire" as defined in 17 U.S.C. 101. Therefore, the Italian publisher is considered to be the "author" for purposes of the Copyright Law, and the "manufacturing clause" restrictions are not applicable. The reservation to the American firm of the distribution rights in the United States and the payment of royalties to the American firm on each book published in the Italian

language would not destroy the employer-independent contractor relationship for purposes of the Copyright Law, so long as the Italian firm is the copyright owner per contractual agreement. Accordingly, the shipment of the book in question, and all other books in the series, "Wonders of Man," published under the same agreement, may be released to the importer.

You may furnish a copy of this ruling to the importer.

List of Unpublished Decisions—1978

Reproduced below is a list of unpublished Customs Service decisions compiled from lists of decisions printed in the CUSTOMS BULLTEIN during 1978. Although these decisions were not of sufficient importance or of sufficient general interest to warrant publication as Treasury decisions, they were listed in order to aid Customs officers and concerned members of the public in identifying matters of interest which have been considered by the Office of Regulations and Rulings. The decisions contained in the list below have been grouped by the issuing branch or division in the Office of Regulations and Rulings. Each group of decisions is preceded by the name of the issuing branch or division.

A copy of any decision included in this listing, identified by its date and file number, may be obtained in a form appropriate for public distribution upon written request to the Office of Regulations and Rulings, attention: legal reference area, room 2404, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. These copies will be made available at a cost to the requester sf 10 cents per page. However, the Customs Service will waive this charge if the total number of pages copied is 10 or less.

Most of the decisions in the list below are now available in microfiche format, with the balance being available shortly. Requests for the decisions in microfiche format should be directed to the legal reference area. Subscriptions are available upon request.

January 15, 1979.

LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

Carrier Rulings Branch

Date of Decision	File No.	Issue
5- 7-78	103150	Carrier control: foreign-flag vessel on cruises originating in U.S.; 46 U.S.C. 289
5- 3-78	103380	Point-to-point local traffic: use of foreign-built containers as instruments of international traffic
5-16-78	103392	Carrier control: use of Canadian-based delivery van in the United States
5- 5-78	103410	Whether operations manager on board vessel to observe operational pattern is a "passenger"
5- 8-78	103411	Dutiability of foreign repairs on U.S. registered-aircraft
6- 2-78	102975	Vessel repair: remission as a "casualty" of foreign repair duties on vessel electronic equipment

Date of Decision	File No.	Issue
5–26–78	103240	Carrier control: substitute traveling manifest requirements
5– 5–78	103314	Carrier control: applicability of navigation laws to Northern Marianas
6– 2–78	103330	Vessel repair: tugboat as "special purpose vessel"; remission of vessel repair duties as a result of a collision; remission for water condensation during high seas refueling operations
6– 2–78	103331	Vessel repair: tugboat as "special purpose vessel"; remission of vessel repair duties as a result of a collision
6–13–78	103474	Carrier control: effect of section 4.80a, CR, on foreign vessels engaged in coastwise transportation of passengers
6–15–78	103232	Instruments of international traffic: polystyrene frames designed for the transportation of clock faces
5–23–78	103309	Carrier control: remission of vessel repair duties
6–23–78	103408	Carrier control: Canadian yachts without valid cruising licenses failing to enter and clear at U.S. ports are in violation of 19 U.S.C. 1585
6– 8–78	103444	Carrier control: dutiability of foreign-installed inert gas systems on American vessels pursuant to 19 U.S.C. 1466
6–15–78	103456	Carrier control: interpretation of "passenger" pursuant to 46 U.S.C. 289; use of foreign-built vessel to train students
6– 7–78	103472	Carrier control: use of a foreign-built vessel in American fisheries
6–23–78	103476	Carrier control: gambling on high seas; interpretation of "high seas" and "gambling operations"
6–20–78	103488	Carrier control: foreign-flag vessel carrying Alaskan crude oil to St. Croix cleared for intermediate
6–29–78	103465	Carrier control: dutiability of foreign repairs necessitated by damage to vessel prior to leaving U.S.
7– 7–78	103475	Carrier control: sufficiency of photocopy of a vessel's certificate of nationality for refund of special tonnage tax and light money
7– 5–78	103493	Carrier control: prohibition of foreign tugboat from towing foreign-owned barges solely in the Houston ship channel pursuant to 46 U.S.C. 316 (a)(2); foreign barges transporting "merchandise" between points in the Houston ship channel are engaging in coastwise trade in violation of 46 U.S.C. 883
7– 6–78	103541	Carrier control: foreign-built vessel used as a dental clinic not engaged in coastwise trade as long as it does not carry merchandise or passengers as defined in 46 U.S.C. 883 & 289
7–13–78	103365	Carrier control: application of coastwise laws to activities of registered fish processing vessel with a restrictive coastwise endorsement

Date of Decision	File No.	Issue
7–11–78	103443	Manifesting: submission of manifests from vessels arriving from Canada having on board cargo destined for foreign countries
7–12–78	103499	Carrier control: use of Japanese freezer ship to process walrus carcasses for export
7–14–78	103538	Carrier control: use of foreign-flag crane vessels at oil drilling platforms on the U.S. outer continental shelf
7–16–78	103077	Vessel repairs: dutiability of tests to determine if repairs are needed or effective, transportation charges, coating of cargo tanks, and alterations to hull
8– 7–78	103147	Carrier control: applicability of Jones Act and Nicholson Act to joint Polish-American fishing venture
6– 2–78	103265	Carrier control: use of foreign-built vessel for processing raw fish into seafood products
7–18–78	103266	Instruments of international traffic: use in point-to-point traffic to exterior port of departure
7–18–78	103344	Carrier control: permissible fishing industry uses of a vessel restricted from engaging in the coastwise trade because it was formerly foreign-owned
8– 1–78	103362	Vessel repairs: whether an ocean-going tug qualifies as a "special purpose vessel" under 19 U.S.C. 1466(c); whether replacement engine parts were spares or were used for repairs; whether repaired items were under warranty
7–22–78	103368	Carrier control: use of formerly foreign-registered vessel for fishing and transporting the catches of other vessels to a U.S. port
7–22–78	103419	Vessel repairs: dutiability of repairs made in Canada following repair work in American Samoa; whether American Samoa is considered an American port for the purpose of applying the "one round voyage, foreign and return" principle
7–25–78	103431	Carrier control: use of foreign fish processing vessel to buy the catches of U.S. fishing vessels and process freeze, and package them
6–23–78	103440	Vessel entry: refund of special tonnage tax and light money
7–26–78	103455	Carrier control: comments on S. 3050, 95th Congress, 2d session, a bill which would amend the Fishery Conservation Act and Management Act by distinguishing between "fishing" and "processing"
7–11–78	103470	Carrier control: interpretation of the phrase "primary object of the voyage," appearing in 19 CFR 4.80(a)(4)
8– 7–78	103490	Manifesting: requirements for privately printed Customs Form 1302, Cargo Declaration
7–10–78	103491	Carrier control: determination of whether the "primary object of a voyage" is coastwise transportation
7–19–78	103498	Carrier control: restrictions on the use of foreign-built fishing vessel

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Date of Decision	File No.	Issue
8- 3-78	103501	Carrier control: use of Canadian truck carrier to transport merchandise between points in the United States and then return to Canada
7- 6-78	103507	Vessel repairs: dutiable status of installation of inert gas systems on American-flag vessels in foreign country
7-17-78	103509	Boarding: boarding requirements for vessels arriving in Puerto Rico with Alaskan crude oil
7- 6-78	103533	Carrier control: dutiability of Canadian railroad car which enters U.S. with cargo, discharges it at one point, reloads at another, and then unloads the cargo at a third point in the U.S. before returning to Canada
7-10-78	103535	Vessel entry: assessment of tonnage tax on vessels arriving in the United States from Quebec
7-24-78	103540	Vessel control: permissibility of transporting debris from U.S. territorial waters to a point on the high seas in a foreign-built barge
7-28-78	103548	Carrier control: use of Canadian railroad cars to transport grain between United States points via Canada
7-26-78	103552	Vessel repairs: installation of inert gas system on U.S. vessels at foreign shipyards
7-27-78	103555	Carrier control: use of foreign-built fishing vessel of less than five gross tons in United States fisheries
7-27-78	103559	Carrier control: use of foreign-flag crane vessels at oil drilling platforms on the U.S. outer continental shelf
7-27-78	103571	Carrier control: use of small vessels which proceed under their own power from territorial waters to the high seas, where they are laded on board a foreign vessel, transported to another point on the high seas, unladed, and then proceed to another coastwise point
7-12-78	103574	Carrier control: 24-hour limit on calls by foreign vessels from nearby foreign ports at U.S. ports
8- 7-78	103575	Vessel entrance: entry and clearance requirements for foreign oceanographic research vessels
8- 3-78	103578	Prohibited and restricted movements: designation of lift vans as instruments of international traffic
8- 4-78	103584	Vessel repairs: dutiability of repairs effected to secure vessels' seaworthiness but not necessitated by stress of weather or other casualty
7-14-78	103487	Carrier control: Applicability of 46 U.S.C. 289 to foreign flag vessel's cruise itineraries
7-27-78	103515	Carrier control: Publication by Customs Service of a proposed rule change in the Federal Register regarding the dutiability of vessel repairs and equipment purchases effected in the Panama Canal Zone
8- 2-78	103528	Carrier control: Yacht used to entertain business guests for the sole purpose of promoting good will or increased business not considered as being used in the coastwise trade

Date of Decision	File No.	Issue
8–11–78	103581	Carrier control: Foreign repairs to vessel's rudder necessitated by wear and tear rather than by a casualty are dutiable; previous repairs lasting 4 years cannot be termed ineffective
8– 2–78	103587	Carrier control: Foreign-flag vessel to be used exclusively as a research vessel in U.S. waters not considered as being used in the coastwise trade
8–16–78	103302	Instruments of international traffic: "Plastic Hubs" used for the transportation of video cassette recording tapes are considered "instruments of international traffic" within meaning of 19 U.S.C. 1322(a)
8–16–78	103574	Carrier control: Foreign-built containers may be used only in incidental local traffic in the course of their use in international traffic
8– 7–78	103575	Carrier control: entry and clearance requirements for foreign vessels engaged in scientific research; scientific observers are not passengers within the meaning of the coastwise trade laws
8–24–78	103583	Carrier Control: a person taken aboard a foreign vessel between coastwise ports for the purpose of providing lectures and demonstrations of Alaskan Indian lore is not a "passenger" within the meaning of the coastwise trade laws
9–16–78	103463	Carrier control: Foreign-built inflatable boats are prohibited by 46 U.S.C. 11 and section 4.80 of the Customs Regulations from being used commercially in white-water rafting in U.S. navigable waters
6–23–78	103477	Carrier control: Whether a vessel owner's bond may be substituted for agent's bond where owner's bond is for a lesser amount than agent's
8– 1–78	103560	Carrier control: Application for refund of special tonnage tax and light money paid by Qatar and United Arab Emirates vessels
8–28–78	103565	Carrier control: Whether a 37 foot gas (vessel) screw which is employed by a museum for the purpose of taking participants on educational field trips in the inland coastal waters surrounding North Carolina would be carrying "passengers" in the coastwise trade
9–11–78	103624	Carrier control: No foreign vessel shall transport passengers between U.S. ports pursuant to 46 U.S.C. 289
9–13–78	103631	Carrier control: No violations of 46 U.S.C. 289 if passengers on foreign cruise vessel going from Freeport, (Bahamas) to Miami to Nassau to Montego Bay to New Orleans go ashore at Miami (less than 24 hours) or disembark at New Orleans
9–28–78	103054	Vessel repair: damage occurring prior to departure from U.S.; reconsideration of earlier ruling

Date of Decision	File No.	Issue
9–27–78	103315	Vessel repair: American vessel damaged by drifting barges; Repairs to a crane damaged by negligence of longshoreman
9–28–78	103327	Vessel repair: Whether the duty assessed on certain repairs under 19 U.S.C. 1466 is subject to remission
9–14–78	103409/ 102603	Carrier control: A foreign-registered aircraft may engage in domestic point-to-point traffic which is incidental to its use in international traffic without being subject to entry or the payment of duty
9–13–78	103426	Vessel repair: Casualty; drydocking charges; repairs not occasioned by casualty
9 27–78	103570	Carrier control: What documents are required on a vessel entering the U.S. Virgin Islands from the British Virgin Islands
9–14–78	103576	Vessel repair: Repairs incurred because of improper maintenance; other repairs necessitated by collision between vessel and barges during rough weather
9–12–78	103612	Carrier control: General information concerning use of fish processing vessel in U.S. territorial waters
9–27–78	103627	Instruments of international traffic: Whether shipping fixture assemblies used to transport electric power generator turbines qualify as instruments of international traffic under 19 U.S.C. 1322(a)
9–27–78	103636	Carrier control: Whether a helicopter leased by a company, piloted by an employee of the company and employed solely to transport the company's employees on company business is a "private aircraft"
9–14–78	103666	Carrier control: Whether 46 U.S.C. 316(c) prohibits the owning of a U.S. vessel by a foreign tug from a point in the U.S. to a point on the high seas
9–28–78	103462	Vessel repair: dutiability of transportation charges under 19 U.S.C. 1466
10– 4–78	103590	Instruments of international traffic: "Chariot", a large wheeled device used to transport flexible pipe between wharves and a foreign trade zone
10–20–78	103169	Unlading: Landing at U.S. port of cargo mistakenly laded aboard foreign vessel at a different U.S. port
9–21–78	103664	Carrier control: waiver of coastwise restrictions in the interest of national defense

Drawback and Bonds Branch

5–12–78	208844	Drawback availability on shipments to Virgin Islands
5–16–78	208947	Drawback: rapid depreciation and obsolescence under 19 U.S.C. 1313(c)
5–30–78	208863	Foreign trade zones—roller skate boots subject to quota
5–12–78	208892	Bonds: inclusion of name of organization represented by principal
5–26–78	209047	Temporary importations under bond: vehicle, engine, and related articles for development of Stirling engine

Date of Decision	File No.	Issue
7-17-78	209174	Temporary importation under bond—motorcycle imported to enhance the sales appeal of tires
7-20-78	209203	Liquidation: duty-free entry of tire components for the purpose of testing domestic machinery
5-30-78	208863	Foreign trade zones—roller skate boots subject to quota
5-12-78	208892	Bonds: inclusion of name of organization represented by principal
5-26-78	209047	Temporary importations under bond: vehicle, engine, and related articles for development of Stirling engine

Entry and Licensing Branch

5-22-78	305350	Import license: computerized data ciphering system
5-22-78	305516	Shoe samples: duty-free importation by international organization
5-22-78	305652	Delay of protest pending submission of additional evidence
5-11-78	305749	Entry: Canadian Government helicopter for surveying
5-22-78	305813	Overdue deferred alcoholic beverage accounts: interest rate
5-15-78	305847	Duty-free exemption: household effects; darkroom equipment taken abroad
5-10-78	305900	Date for determining effective rate of duty
5-11-78	305929	Entry: requirements concerning art work
5-22-78	305934	Duty-free entry: foreign government materials for NASA project
5-22-78	305970	Duty-free entry: automobile for nonresident personal use
6- 2-78	305167	Examination and sampling of wool: expense of coring
5-11-78	305576	Entry of firearms previously taken abroad by returning servicemen
5-26-78	305840	Importation of hammocks for GSP purposes
5- 9 78	305931	Dutiable status of sugar on ships delayed by engine trouble
6- 1-78	305936	Timeliness of protest
6- 1-78	305959	Duty rate for imported distilled spirits
5-26-78	305961	General requirements for importation of merchandise
6- 2-78	305972	Duty-free informal entry procedures for United States research equipment
5-26-78	305999	Entry procedures: mail importations; samples under bond; printed matter
6-12-78	305761	Entry: bonded carrier may have merchandise examined at another carrier's facilities
6- 7-78	305792	Dutiability: blueprints
6-16-78	305984	Entry requirements for electron microscopes
6-14-78	306007	Entry: allowance for excessive moisture and other impurities in petroleum
6-19-78	306008	Entry: delays in obtaining certificates of origin for GSP purposes
6-15-78	306081	Entry: interpretation of the word "entry" as used in section 141.113 (b), CR

Date of Decision	File No.	Issue
6–18–78	306082	Entry: record retention requirements for customhouse brokers
6–16–78	306088	Entry: number of consumption entries necessary for multiple immediate transportation entries
7–10–78	305322	Entry: duty-free entry of material for NICSMA (NATO Integrated Communications System Management Agency)
7– 3–78	305820	Entry: manifest requirements for bulk container shipment of alcoholic beverages
6–30–78	306085	Entry: manifest requirements for multiple immediate transportation entries; use of special manifest rather than immediate transportation entry
6–22–78	306098	Entry: separate shipments not exceeding $250 in value are allowed informal entry
6–23–78	306100	Entry: U.S. resident $100 duty-free exemption
6–29–78	306146	Licensing: closing of corporate customhouse broker's only office in a district where corporation is licensed requires that license be forwarded to Customs headquarters for cancellation
7–17–78	306047	Entry: U.S. Government employee may take Customhouse broker's exam—license not issued until terminated from government service; conflict of interest exists where spouse of Customhouse broker applicant is Customs employee
7–11–78	306057	Entry: conversion of a temporary importation bond entry to a duty-free entry under item 851.60, TSUS
7– 6–78	306087	Classification: various metal detectors
7–11–78	306124	Entry procedures: hollow steel structural sections: completion of Customs Form 5520
7–11–78	306191	Entry procedures: application of 19 CFR 10.175 to consolidation of GSP purchases from Taiwan and Korea in Hong Kong; accompanying documents must show the United States as the final destination.
8– 1–78	305754	Vessel stores: serving of duty-free alcoholic beverages on international flights prior to takeoff
7–24–78	306022	Entries: procedures for possible alleviation of hardship caused by delayed arrival of merchandise due to strike until after effective date of executive order removing the merchandise from duty-free treatment under GSP
7–21–78	306213	Entries: proper form and appropriate time to file to claim GSP treatment
8– 9–78	306217	Returning residents: graduate student seeking duty-free entry of Tahitian quilts obtained in course of studies
8– 7–78	306279	Duty assessment: dutiable status of geophysical exploration vessel, its onboard equipment and certain additional equipment; dutiable status of vessel equipment transferred between ships of the same line

Date of Decision	File No.	Issue
8– 3–78	306306	Entry: applicability of entry requirements to shipments from Guam; use of customhouse brokers not mandatory
8–16–78	306127	Entry: Liability of importer for additional duties even though entry was previously liquidated
8–15–78	306240	Entry: Importation of alcoholic beverages in violation of state laws
6– 2–78	305167	Examination and sampling of wool: expense of coring
5–11–78	305576	Entry of firearms previously taken abroad by returning serviceman
5–26–78	305840	Importation of hammocks for GSP purposes
5– 9–78	305931	Dutiable status of sugar on ships delayed by engine trouble
6– 1–78	305936	Timeliness of protest
6– 1–78	305959	Duty rate for imported distilled spirits
5–26–78	305961	General requirements for importation of merchandise
6– 2–78	305972	Duty-free informal entry procedures for United States research equipment
5–26–78	305999	Entry procedures: mail importations; samples under bond; printed matter
9–15–78	306419	Entry: Request for partial refund of duties paid on the entry of a shipment of sugar delayed because of weather conditions; Presidential Proclamation 4547
9–28–78	306466	Import requirements and classification: Indian silk clothes
10–11–78	306553	Entry procedures: general information regarding importing merchandise into U.S.
10–11–78	306554	Entry procedures: books sold from docked ship on which conferences will be held
10–11–78	306560	Entry procedures: importation of American-made car by a registered alien
10–19–78	306485	Entry: amount of claim to be filed in bankruptcy proceeding against importer who went bankrupt before depositing duties
10– 4–78	306530	Entry: definition of the term "importer of record"
10–27–78	306286	Entries: failure of U.S. government agency to make timely entries
10–25–78	306366	Collections and refunds: refund of duties for television sets prohibited entry due to noncompliance with government requirements
10–30–78	306660	Entry: conditions for the purchase by municipal police department of guns denied entry and held by Customs as general order merchandise
11– 1–78	306679	Liquidation: effect of naming wrong importer on notice of liquidation
11– 1–78	306689	Entry: effect of entry at different ports of a ski lift and parts, which if entered as an entirety would have been subject to a lower rate of duty

Value Branch

Date of Decision	File No.	Issue
8- 1-78	541634	Export value: whether export value is reflected by the price at which merchandise is invoiced or by the price at which the merchandise is actually sold in the country of exportation
8- 9-78	541816	Duty assessment: assembly equipment furnished as an assist to a foreign subcontractor
8- 9-78	541817	Duty assessment: 1, 3, 5—Trichlorobenzene
7-20-78	551488	Countervailing duty: non-rubber footwear from Brazil
8- 3-78	551491	Countervailing duty: proper rate for non-rubber footwear from Brazil
5- 7-78	551498	Countervailing duty: footwear from the Republic of Korea
8- 8-78	551740	Antidumping: applicability of finding of dumping of acrylic sheet to finished or semi-finished products manufactured from acrylic sheet and to gold-flecked metallic imbedment acrylic used for engraving
10- 5-78	541575	Valuation: whether royalties paid by a licensee for use of a trademark and for the licensor's product warranty are part of the constructed value of imported ladies garment
10-18-78	541798	Value: use of gains or losses due to currency fluctuation, sale of assets, or foreign income tax to determine profit on articles entered under item 807.00, TSUS

Commercial Fraud and Negligence Branch
Miscellaneous Penalties Branch

7-18-78	650401	Commercial fraud: railcar, an instrument of international traffic intended to be diverted to domestic service, by mistake was directly exported Railcar was re-imported as deadhead astray, but found to contain domestic cargo, and was seized for violation of 19 U.S.C. 1592 pursuant to 19 CFR 123.12

Restricted Merchandise Branch

5-18-78	707379	Country of origin marking: ball bearings
5-18-78	707920	Country of origin marking: side plates for roller chain
5-16-78	707921	Marking: allowable designations for Federal Republic of Germany
5-26-78	707895	Country of origin marking: small stainless steel shackles
6-26-78	707905	Restricted merchandise: U.S. obscenity standards and procedures for imported obscene material
10-16-78	707978	Country of origin marking: aluminum sliding brackets and standards
10-26-78	707827	Country of origin marking: seals and shields of Japanese origin which, after importation, are affixed to bearings manufactured in Romania

Date of Decision	File No.	Issue
5–17–78	708457	Country of origin marking: chain products from Yugoslavia
5–18–78	708775	Trademark information: Nikon cameras
5–18–78	708791	Country of origin marking: reproduction of 1693 coin
5–16–78	708800	Country of origin marking: imported cutlery to be silverplated or goldplated in the United States
5–16–78	708949	Country of origin marking: "Chemstrip" products from W. Germany
5–16–78	708950	Country of origin marking: closed barrel terminals
5–18–78	708984	Admissibility of article under 19 U.S.C. 1385
5–18–78	708987	Country of origin marking: rifles and shotguns
6– 2–78	708879	Restricted merchandise: switchblade knives
5–31–78	708979	Country of origin marking: shirts, trousers, towels, towels in rolls, and wipe rags
6– 5–78	708777	Trademark infringement: similarity of names "Seiko" and "Aseikon"
6–22–78	708106	Trademark infringement: red ball mark used for shoes by Uniroyal, Inc. v. red ball on heel of left "Kickers" shoes
6–27–78	708455	Restricted merchandise: copyright infringement of "Mr. & Mrs. Cornhusk Mouse"
5–18–78	708880	Country of origin marking: paint stir sticks
7– 6–78	708939	Country of origin marking: finished tennis rackets sent abroad for stringing using U.S. materials and returned to the United States are not substantially transformed to require country of foreign origin marking. Unfinished tennis racket frames sent abroad for stringing using foreign material and labor are substantially transformed
6– 2–78	708879	Restricted merchandise: switchblade knives
5–31–78	708979	Country of origin marking: shirts, trousers, towels, towels in rolls, and wipe rags
9–18–78	708547	Prohibited and Restricted Importations: Customs investigations of alleged importations of prohibited mink furskins from the Soviet Union
9–25–78	708708	Patent survey: Survey pursuant to section 12.39a of the Customs Regulations not applicable to the Virgin Islands
9–29–78	708076	Prohibited and restricted importations: trademark infringement: sale of goods bearing marks confusingly similar to registered trademarks in duty-free shops
10–10–78	708049	Prohibited and restricted importations: copyright—Spanish language text book
5–19–78	709021	Country of origin marking: baskets from Haiti
5–18–78	709023	Country of origin marking: plastic moldings
5–18–78	709031	Restricted merchandise: wildlife products from Africa
5–10–78	709047	Trademark violation: "Baresi" macaroni products
5–16–78	709069	Marking: location of words "Made in ——"
5–24–78	709079	Restricted entry: endangered species; snakes

Date of Decision	File No.	Issue
5-26-78	709005	Country of origin marking: lock handle and matched keys
5-31-78	709019	Country of origin marking: labels
5-26-78	709039	Importation of works of art and antiques
5-26-78	709040	Country of origin marking: steel blank flanges
5-26-78	709102	Copyright: importation of Spanish-language books
6- 5-78	709103	Restricted merchandise: book, *Farewell America*
6-19-78	709090	Country of origin marking: kitchen knife blades
6-14-78	709123	Country of origin marking: substantial transformation of cassette reels
6-19-78	709180	Country of origin and fiber content marking: cowl neck sweater
6-26-78	709065	Country of origin marking: coupling parts
6-28-78	709118	Country of origin marking: boxes of stationery
6-29-78	709213	Restricted merchandise: exception to copyright law—importation of one copy of a foreign-published book as part of personal baggage
7-12-78	709066	Country of origin marking: thermometer sheaths
7-10-78	709250	Country of origin marking: commercial stationery excepted if container marked, 19 U.S.C. 1304(a)(3)(D)
7- 6-78	709263	Restricted merchandise: exportation of detained switchblade knives other than through the mail at no expense to the Government, 19 CFR 12.100
7-11-78	709266	Country of origin marking: possible exception for eye glass frames and parts variously imported, assembled, and electroplated in the U.S. under 19 U.S.C. 1304 (a)(3) (D), (G), (H)
7-10-78	709286	Country of origin marking: plywood doorskins
7-19-78	709300	Restricted merchandise: wood bottle opener base need not be specially fumigated, but it must be free of wood-boring insects and termites
7-24-78	709218	Restricted merchandise: Consumer Product Safety Commission does not require UL approval or other inspection for imported home electric appliances
7-21-78	709292	Country of origin marking: watch movements assembled in Hong Kong from West German parts; watch dials manufactured in Hong Kong and attached to the movements in Hong Kong
7-25-78	709320	Country of origin marking: proper designations for Haiti, Taiwan, Mexico, Korea, and the Philippines
7-31-78	709325	Country of origin marking: work gloves
8- 7-78	709027	Country of origin marking: proper location of marking on cutting shears
7-24-78	709227	Country of origin marking: leather coats
8- 9-78	709253	Country of origin marking: crankshafts forged in Germany which undergo further machining in France
8- 8-78	709343	Prohibited and restricted importations: redelivery to Customs of imported automobile which cannot be modified to U.S. safety and emission standards

Date of Decision	File No.	Issue
8- 9-78	709347	Country of origin marking: wooden blocks imported as components for making brushes
8-22-78	709160	Prohibited and restricted importations: Mao Tse-Tung's Little Red Book not restricted by "manufacturing clause" of copyright law
8-17-78	709362	Prohibited and restricted importations: "Play-Bingo" tickets as a form of lottery tickets; interpretation of the term "lottery"
8-15-78	709367	Prohibited and restricted importations: acupuncture kits must satisfy FDA requirements
5-26-78	709005	Country of origin marking: Lock handle and matched keys
5-31-78	709019	Country of origin marking: labels
5-26-78	709039	Importation of works of art and antiques
5-26-78	709040	Country of origin marking: steel blank flanges
5-26-78	709102	Copyright: importation of Spanish-language books
6- 5-78	709103	Restricted merchandise: book, *Farewell America*
8-30-78	709319	Prohibited & restricted importations: rush or broad-leaf soft flag harvested in Canada may be imported provided phyto-sanitary certificate is obtained
9- 5-78	709390	Country of origin marking: marking padded toilet seats with hinged covers may be accomplished by securely affixing durable tags to a hinge, or by attaching a durable pressure sensitive label to either the seat or cover
8-25-78	709395	Prohibited & restricted importations: Cuban cigars purchased in Ireland are prohibited merchandise without an FAC license
9-18-78	709248	Country of origin marking: Adequacy of country of origin marking on an imported liquor pourer
9-11-78	709351	Country of origin marking: "CSO process pumps"
8-31-78	709433	Prohibited and Restricted Importation: Cuban cigars purchased in Ireland
9-27-78	709329	Prohibited and restricted importations: *High Tech*, and industrial style source book for the home, not prohibited entry into the United States by the copyright law's "manufacturing clause" because it is "preponderantly" pictorial
9-26-78	709379	Marking: Country of origin; The marking on a paper sticker label on beer mugs is not sufficiently conspicuous or legible
9-25-78	709383	Marking: Country of origin; Substantial transformation of copper tubes
9-18-78	709385	Prohibited and restricted importations: Copyright infringement of "Mr. & Mrs. Cornhusk Mouse"; reconsideration of earlier ruling
9-26-78	709473	Prohibited and restricted importations: California and federal law prohibit the unlicensed importation of alcohol in excess of the Federal duty-free amount;

Date of Decision	File No.	Issue
		consignment to a common carrier under California law
10- 5-78	709494	Prohibited and restricted importations: foreign car belonging to a resident alien which does not conform to safety or emission standards
10- 6-78	709514	Country of origin marking; plastic pipe fittings
10-25-78	709310	Mail entries: letters from communist countries
10-26-78	709323	Prohibited and restricted importations: chain door lock alarm possibly subject to International Trade Commission exclusion order
10-31-78	709371	Country of origin marking: machined and unmachined ceiling fan castings and their containers
10- 2-78	709386	Prohibited and restricted importations: trademarks—similarity of trademarks "Fromage de France" and "Isle de France"
10- 6-78	709476	Prohibited and restricted importations: patent infringement—camping tents imported from Japan
10-23-78	709495	Prohibited and restricted importations: golf balls possibly subject to International Trade Commission exclusion order
10-13-78	709502	Marking and labeling: marking of gold jewelry to indicate its gold content
10-18-78	709515	Country of origin marking: bases used as a component of fireset racks or stands of U.S. manufacture
10-26-78	709532	Country of origin marking: steel valve protection caps for acetylene gas and oxygen cylinders used in the welding trade
10-24-78	079533	Prohibited and restricted importations: used postage stamps
10-27-78	709546	Prohibited and restricted importations: single blade pocket knives which may be opened by inertia
10-27-78	709321	Country of origin marking: electro-surgical apparatus

Classification and Value Division

5-26-78	045027	Classification: breadboard models
5-30-78	049597	Classification: children's blue denim love knot sandal
6- 9-78	048787	Classification: radius and angle dresser for grinding wheels
6-22-78	044103	Valuation: application of ASP to imported athletic shoe
6- 9-78	048144	Classification: meter units and control units which control rate of lubrication
6-23-78	043772	Classification: powdered marble
7-26-78	047161	Classification: tailshafts, lineshafts, and coupling bolts and nuts, specifically designed for use with hydraulically operated controllable pitch propellers
8-16-78	049633	Classification: Electric powered coffee mill; hydraulic hand pump with ram and cutting tools

Date of Decision	File No.	Issue
8–29–78	049159	Classification: ornamented shoe upper
6–29–78	044265	Classification: plywood
8–16–78	047795	Classification: pile weatherstripping
8–23–78	049482	Classification: aluminized poncho-like garment to be worn as a protection against the cold
10–18–78	046875	Classification: hand-loomed woven textile material
6–21–78	046885	Classification: metribuzin, a herbicide
7–12–78	051692	Classification: incomplete cotton terry slippers
7–10–78	051711	Classification: tree length harvester machine
10– 4–78	051589	Classification: framed textile wall panel
7– 5–78	051633	Classification: thermal wear of cotton
10–27–78	051929	Classification: man's cross-country ski-boot; vinyl golf shoe
5–16–78	052761	Classification: ejection pump
7–10–78	052028	Classification: feller-buncher on loader
7–14–78	052656	Classification: slipper socks according to component material of uppers and soles
8–10–78	052158	Classification: Inflatable plastic replica of "Goodyear" blimp
9–21–78	052446	Classification: textile and enamel badges
6–15–78	052526	Classification: various flowers, spices and seeds for use in herbal tea blends and for medicinal purposes
7–17–78	052527	Classification: knit elastic webbing or tape
10–12–78	052747	Customs laboratories testing: measurement of footwear uppers
7–24–78	052979	Classification: infants knit bootie-type footwear, ornamented with embroidery
9– 1–78	052878	Classification: women's cotton denim jeans with strip of fabric attached to top of pocket
6–29–78	052438	Classification: woven fabric of man-made fiber, used in sludge denaturing machine for filtration and conveyance
9–21–78	052626	Classification: woven fabric made from clear man-made fiber strips coated on one side with clear polyethylene
7–13–78	052879	Classification: synthetic rubber
5– 5–78	053875	Classification: hand hydraulic cable cutter
7– 6–78	053278	Classification: aluminum disks for use in computer
7–10–78	053474	Classification: various items of logging machinery
7–12–78	053592	Classification: various components of electric fencing
7–14–78	053760	Valuation: men's jogger athletic shoe subject to appraisement on ASP basis of valuation
7–19–78	053879	Classification: vinyl upper loafer with crepe sole and jute band
7– 5–78	053891	Classification: "Beach Frog", a rubber beach sandal
7–14–78	053937	Country of origin marking: beachcomber sandals
7–10–78	053950	Classification: tree logging machines
8–29–78	053525	Classification: ice cream cones and plastic drinking straws

Date of Decision	File No.	Issue
8–16–78	053110	Classification: filter cloth for dust collector
9–12–78	053284	Classification: machine punched felts of man-made fibers
9–13–78	053285	Classification: nonwoven carpeting with support scrim
9–20–78	053286	Classification: needle punch fabric with support scrim, man-made and wool fiber
9–21–78	053295	Classification: man's denim jacket and khaki-colored twill-woven pants
5–22–78	053303	Classification: various fruit powders
7–25–78	053327	Classification: tarpaulins used for swimming pool covers
9– 1–78	053527	Classification: down-filled ski jackets
6–27–78	053575	Classification: hydrolyzed animal collagen in powder and liquid forms
9–12–78	053600	Classification: woven fabric of man-made fibers, coated or filled with rubber or plastics, imported in material lengths to be used for screen printing
8–23–78	053611	Classification: man-made fiber yarn piled around a core of carbon fibers
8–23–78	053613	Classification: braided cord with a nonelastic core used as yacht rope
8–23–78	053773	Classification: whether yarn ends protruding ¼ inch from a coarsely woven wall hanging constitute fringe
8–23–78	053783	Classification: hand-loomed cotton fabric with rows of fringes, made by a cottage industry
6–21–78	053686	Classification: certain agricultural chemicals
8–23–78	053895	Classification: curtains with replique hem and embroidery
7–17–78	053921	Classification: perfume formulations
5–11–78	054442	Classification: "Stomahesive", for use after surgery
5–11–78	054701	Classification: steel outboard motor bracket
5–11–78	054730	Classification: dielectric sleeves
5–16–78	054820	Classification: unwrought molybdenum disilicide wire
5–17–78	054904	Classification: brush set for eye makeup
5–12–78	054933	Valuation: volleyball shoes; American selling price
5– 8–78	054956	Classification: PVC seamless tubing
5–12–78	054992	Classification: alloy cast iron pipe
5– 5–78	054045	Classification: prepared or preserved pineapples
5–16–78	054948	Classification: handmade rugs for GSP purposes
6– 7–78	054980	GSP treatment: primary batteries not separately invoiced
5– 1 78	054410	Classification: rugby balls
6– 6–78	054609	Classification: laser scanner, DP voice recognition system, high speed digital facsimile
5– 1–78	054676	Classification: magnesium reject castings
5–22–78	054964	Classification: miniature wooden angels
6– 2–78	054990	Classification: mobile cranes and boring, excavating and lifting machines
6–15–78	054612	Classification: women's front zipper apres-ski boot
6–15–78	054729	Classification: vinyl tote bags

Date of Decision	File No.	Issue
6– 1–78	054926	Classification: plastic netting for use in artificial kidneys
6– 2–78	054941	Classification: insulated plastic baby bottle warmers
6–15–78	054960	Classification: cross-country ski glove
6– 9–78	054968	Classification: cross-country ski glove
6–23–78	054930	Classification: polished silicon wafers and slices
6–19–78	054995	Valuation: application of ASP to imported athletic shoe
5– 2–78	054585	Classification: metal detector
7–10–78	054728	Classification: certain sheaves and brake rings used as parts of log yarders
7–10–78	054732	Classification: parts of log yarders
7–10–78	054762	Classification: certain handling machinery and parts
7– 5–78	054917	Classification: silicon metal
7–10–78	054763	Classification: parts of logging machinery
8–14–78	054735	Valuation: overrun shoes subject to appraisement on ASP basis
8–15–78	054989	Classification: leather and nylon baseball batting gloves
9–20–78	054010	Classification: low grade zinc oxide residue
9– 8–78	054386	Classification: beach sandal
7–25–78	054109	Classification: women's and girls' panties, knit of man-made fibers with cotton crotch
6– 9–78	054210	Classification: hand-loomed fringed wool cape
8–23–78	054224	Classification: women's cotton knot top and pants
8–23–78	054337	Classification: elastic webbing material
8–28–78	054507	Classification: handwoven cotton bedspread
6–15–78	054357	Classification: glucose test diagnostic reagents
8–23–78	054586	Classification: man's long-sleeve western style shirt with single pointed yoke; short sleeve shirt
10–13–78	054911	Classification: small glass bottles filled with specks of gold and hung on a chain around the neck
7– 3–78	054994	Classification: women's cotton flannel night gown
6–21–78	054225	Classification: bush jacket
7–11–78	054587	Classification: polypropylene placemats
10–16–78	054634	Classification: articles of wearing apparel to which strap fasteners resembling epaulets are affixed
10– 6–78	054671	Classification: crude dibasic acid
5–11–78	055561	Substantial transformation for GSP purposes: potassium iodine
6– 6–78	055526	Substantial transformation of machine parts for GSP purposes
6– 7–78	055555	Substantial transformation of unstamped PVC for GSP purposes
6– 6–78	055556	GSP treatment: carbide die sets
5–22–78	055000	Classification: parts of watchband
5–17–78	055002	Valuation: pump-style shoe; ASP
6– 7–78	055012	Classification: boat models
6– 7–78	055016	Classification: irrigation sprinkler system
6–14–78	055026	Classification: eyelets for footwear
6–15–78	055040	Classification: cross-country ski glove

Date of Decision	File No.	Issue
6–15–78	055041	Classification: cowhide leather cross-country ski gloves
6–14–78	054504	Substantial transformation of atrazine for GSP purposes
6– 7–78	055512	Substantial transformation of rabbit fur collars for GSP purposes
6–16–78	055562	Substantial transformation of chemical ingredients of DBCP for GSP purposes
6–14–78	055566	Substantial transformation of electronic components for GSP purposes
6–16–78	055574	GSP treatment of original works of art
6–22–78	055009	Classification: cross-country ski gloves
6–30–78	055032	Valuation: application of ASP to imported ladies' sandal
7– 3–78	055059	Classification: immersible water heater with a fully electronic control thermometer and pump
7– 5–78	055051	Classification: "Sleepwalking Sam", a wind-up toy
7– 3–78	055065	Classification: wooden nutcracker dolls
7–12–78	055078	Classification: horsehide and cowhide gloves
7–19–78	055098	Classification: Porta-Communicator and Back Pack Crystal Radio for use with Six Million Dollar Man doll
8– 1–78	055121	Classification: plastic fly fishing line
8– 1–78	055152	Classification: reed grass brooms
8–10–78	055164	Classification: plastic capsules used to hold small toys, jewelry, and other trinkets sold in vending machines
8– 7–78	055125	Classification: "Butt Stompin' " ashtray
8–11–78	055127	Classification: Battery-operated "Great American Con Machine"
8–15–78	055128	Classification: Molybdenum disilicide wire
8–14–78	055174	Classification: Jurisdiction of Customs Service to review tariff classification matters which are pending before the U.S. Customs Court
8–23–78	055130	Valuation: wedge-type sling-back dress sandal; ASP
8–30–78	055140	Classification: all-terrain motor vehicle designed to carry passengers
8–23–78	055597	Duty-free entry: whether Form A is required when duty-free treatment is claimed other than under GSP
9–20–78	055104	Duty Assessment: Status of certain "handling fees"; interpretation of a bona fide buying agent and bona fide buying commissions
9–12–78	055229	Classification: Mechanism used to lay drains and pipes without need for digging a trench
9–21–78	055190	Valuation: Application of ASP to an imported ladies' vinyl sandal
9–21–78	055201	Classification: Certain hot-rolled steel products
9–21–78	055231	Valuation: Application of ASP basis to imported athletic footwear
9–26–78	055236	Valuation: Application of ASP basis to an imported woman's shoe
9–28–78	055237	Valuation: Application of ASP basis to an imported woman's shoe

Date of Decision	File No.	Issue
8- 2-78	055135	Classification: meat product—beef mixed with water, seasoning and curing agents, chopped into emulsified state, and then molded and cooked
9-26-78	055234	Valuation: applicability of ASP basis of valuation to imported ladies' sandal
9-22-78	055254	Duty assessment: articles entered free of duty as antiques under item 766.25, TSUS, subsequently determined not to be antiques
10-11-78	055259	Valuation: ASP basis of valuation of the domestic "wedgy" to imported ladies open toe, open back sandal
10- 3-78	055301	Classification: electronic grade synthetic quartz
9-15-78	055588	Generalized system of preferences: substantial transformation, leather belts
10- 8-78	055306	Value: applicability of American selling price to open-toe, open-back slip-on sandal
10-18-78	055307	Value: applicability of American selling price to satin quilt slipper
10-20-78	055319	Classification: wooden toy banks
10-20-78	055616	Generalized System of Preferences: whether hardwood veneer or woodtape manufactured in Singapore from imported logs is considered "local content" for GSP purposes
10-10-78	055620	Generalized System of Preferences: whether cutting, sewing, and pressing of leather to form leather articles constitutes substantial transformation
10-26-78	055090	Classification: tire used on logging skidder
10-25-78	055279	Classification: driveshafts for outboard motors
10-25-78	055281	Classification: toy walkie-talkie phone sets
10-26-78	055293	Value: applicability of American selling price to open toe, open back sandals from Taiwan

Manufactures Classification Branch

5-11-78	056073	Classification: Christmas decorations of paper-mache
5-17-78	056097	Classification: electronic weighing devices
5-22-78	056022	Classification: thermalite igniter cord
5-17-78	056024	Classification: truck-tractor
5- 5-78	056046	Classification: toys and games
5- 4-78	056084	Classification: laminated plastic sheet
6-21-78	056047	Classification: rubber or plastic "moonboot"
7- 3-78	056018	Classification: molded acrylic bathtub
6-30-78	056087	Classification: Public Law 95-160, effective as to goods entered on/after November 8, 1977; no "administrative relief" due to entry delay resulting from dock strike
5-12-78	056168	Classification: polyethylene bags and woven polypropylene bags

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Date of Decision	File No.	Issue
6– 5–78	056147	Classification: polypropylene tubing stamped into a weaved pattern
6– 5–78	056174	Classification: roofing materials
6– 8–78	056136	Classification: communication aid with a battery pack charger, armbelt, and paper
7–19–78	056128	Classification: color graphic display terminal
7–14–78	056163	Classification: various articles used in electrical data, transmission
8–10–78	056122	Classification: separator, fiber mill, and filter press used in recycling plants
10– 6–78	056123	Classification: toy slippers
10–16–78	056197	Classification: insulating wall panels
5– 9–78	056263	Classification: sliding glass window units
5–17–78	056296	Classification: various plastic toys and games
5– 3–78	056229	Classification: steel welding fastener
5–23–78	056240	Classification: corn husk mice: copyright protection
6– 5–78	056261	Classification: plastic tiles and base plates
5– 5–78	056264	Classification: bowling pins
5– 1–78	056270	Classification: textile processing machine
5– 4–78	056283	Classification: copper cooling device for thyristons and diodes
5– 2–78	056287	Classification: aluminum roofing panels, screws, and nails
6–19–78	056293	Classification: net supports used with furniture
7– 3–78	056221	Classification: ball bearings with integral shaft covers
6–28–78	056237	Classification: machinery used in wire production
6–23–78	056265	Classification: polyethylene foam material
7–19–78	056268	Classification: cleaver-like knife
6–30–78	056277	Classification: tractors, tracked vehicle carriers, and excavating machinery for peat harvesting operations
5–11–78	056359	Classification: fishing rod with built-in flashlight, knife, and other accessories
5–17–78	056371	Classification: leather cases
5–12–78	056374	Classification: generator coil insulation
5–15–78	056396	Classification: plastic Santa Claus figures with candy inside
5–23–78	056309	Classification: linear ball bearings with flat ways
5–23–78	056311	Classification: various graphic arts machines
5– 2–78	056314	Classification: metal and laminated paper cutter
5– 8–78	056379	Country of origin marking: coil steel
5–10–78	056381	Classification: corn husk dolls
5–25–78	056382	Classification: cap pistol on a key chain; "cut finger"
5–22–78	056389	Classification: "Miracle Brush" for clothing
6–13–78	056304	Classification: coal separating system and building in which it will be housed
5–30–78	056343	Classification: interpretation of "in chief value of rubber and plastics" for footwear
6–30–78	056362	Classification: stator vanes in fan-jet engines
6–30–78	056376	Classification: spray painting robot

Date of Decision	File No.	Issue
7–12–78	056363	Classification: molded footwear soles of plastic and synthetic rubber
7–19–78	056375	Classification: house trailers that float, made of plastic or canvas
7–10–78	056384	Classification: tree-length harvester (motor vehicle)
7– 6–78	056392	Classification: plastic 12-tape cassette album
7– 7–78	056395	Classification: plastic dog bowls
8– 3–78	056367	Classification: valve stem oil seals
9–11–78	056318	Classification: Separator material for lead-acid type storage batteries for automobiles and motorcycles
9–12–78	056639	Classification: Plastic button "molds" and twine loops for upholstered furniture cushions
10– 1–78	056366	Classification: criteria for determining what constitutes "zoris" for tariff purposes
5–11–78	056433	Classification: cellulose acetate membranes
5–17–78	056437	Classification: clutches and drive elements
5–11–78	056460	Classification: leather footwear components
5–17–78	056492	Classification: metal mesh
5–17–78	056493	Classification: sueded cowhide gloves
5–26–78	056400	Classification: chill cast iron rolls; calendering rolls
5– 2–78	056416	Classification: tractor sealed beam lamps
6– 6–78	056432	Classification: wooden coin box and animal craft pocket kit
5–25–78	056438	Classification: alloy steel wire
5–22–78	056441	Classification: aluminum decorative tiles
5–25–78	056464	Classification: doll clothing, accessories and wigs
5– 2–78	056465	Classification: hang gliders
6– 5–78	056499	Classification: air cleaners, clean benches, and clean rooms (for controlled environments)
5–30–78	056462	Classification: wooden toys and articles
6–15–78	056480	Classification: tractor-trailer modules
6–14–78	056488	Classification: magnetic separator/filter combination
7–13–78	056420	Classification: stud link anchor chain for offshore drilling platform
7–18–78	056425	Classification: decorative laminate and hardboard surface coverings
7– 6–78	056454	Classification: 3-point hitch and tractor suitable for agriculture use
7–14–78	056457	Classification: vinyl carpet runners and vinyl stair threads
7–14–78	056476	Valuation: ladies' PVC sandals subject to ASP appraisement
6–30–78	056490	Classification: llama rugs
7–21–78	056473	Classification: professional deep sea fishing reel mounted to vessel and operated by motor; hydraulic net hauler; seawater ice machine; and fish grading and sorting machine
8–15–78	056486	Classification: footwear with rubber or plastic soles and fabric uppers; ASP

Date of Decision	File No.	Issue
5- 4-78	056540	Classification: zinc balls
5-18-78	056547	Classification: steel reels
5-11-78	056556	Classification: machinery and tools
5-16-78	056558	Classification: front projection photographic background system
5-18-78	056565	Classification: polyethylene bags, wrapping sheets, and film strips
5-10-78	056577	Classification: footwear with cotton upper and jute sole
5-11-78	056594	Classification: steel grape stakes; agricultural implements
6- 6-78	056524	Classification: automatic liquid inks storage and mixing system
5- 5-78	056529	Classification: hydraulic concrete breaker
5-25-78	056537	Classification: down-filled jackets
6- 5-78	056542	Classification: nickel-bearing residue
5-25-78	056544	Classification: rubber soccer doll on a key chain
5-22-78	056545	Country of origin marking: nylon knit gloves
5-26-78	056552	Classification and country of origin marking: steeel lids
6- 5-78	056574	Classification: special effects contact printer and compound table
5- 8-78	056576	Classification: pocket flashlight with rechargeable battery
5-11-78	056583	Classification: offshore drilling rig
5- 2-78	056584	Classification: fiberglass insulation; acoustical screens
5- 8-78	056585	Classification: steel hex bolts
5-25-78	056586	Classification: steel rods, washers, and hexagon nuts
5- 9-78	056587	Classification: vibrating-roller compacting machine
5- 4-78	056590	Classification: canvas sling
5-22-78	056592	Classification: motorized lifting machine; steel honeycomb racks and cradles
5-22-78	056595	Classification: texturing spindlette
6- 5-78	056596	Classification: beaded Christmas tree garland
5-26-78	056597	Country of origin marking: nylon knit gloves
6- 6-78	056512	Valuation: use of athletic shoes from Puerto Rico for appraising imported footwear for ASP purposes
6-12-78	056536	Classification: plastic and wooden television stands
6-12-78	056549	Classification: processing vats
6-15-78	056561	Classification: magnetic tape
6-12-78	056582	Classification: similated glove buckles
6-30-78	056526	Classification: ladies PVC coat with zip-in acrylic liner
7- 3-78	056599	Classification: carved lacquerware vases
6-14-78	056534	Classification and country of origin marking: acrylic knit gloves
7-14-78	056507	Classification: various agricultural implements for use with agricultural tractors
7- 7-78	056520	Classification: plastic video tape reel
7-14-78	056528	Classification: net material used for making horse blankets

Date of Decision	File No.	Issue
7–19–78	056548	Classification: roller skate boots with metal skate plate attached
7–13–78	056550	Classification: plastic pencil box with rigid construction
7–13–78	056559	Valuation: canvas tennis shoe subject to ASP appraisement
6–30–78	056598	Classification: Insocure generator/mixer, which converts amine in liquid form to a gas
8– 2–78	056502	Classification: cobalt-nickel-iron alloy in the form of shot or granules
8– 8–78	056533	Classification: knit gloves, the shells of which are made in the U.S. from imported acrylic yarn, and then exported for addition of a vinyl palm and back; eligibility for drawback and GSP treatment
7–24–78	056564	Classification: hydraulically adjustable shower trolley for hospital patients; therapy bath
8–17–78	056510	Classification: latex insoles
8–10–78	056531	Classification: pneumatic and mechanical propulsion control system: brake discs and calipers
8–30–78	056509	Classification: hat braid
8–29–78	056510	Classification: rubber arch support "cookies" used in the soles of jogging shoes
9–26–78	056569	Classification: "Barboul" plastic building components for use by children
10– 1–78	056521	Classification: kite kits, wooden spools
10–25–78	056568	Classification: crystal shapes used in making jewelry
5–11–78	056600	Classification: down-filled sleep bags and parkas
5– 9–78	056602	Classification: tractors suitable for agricultural use
5–15–78	056613	Classification: magazine paper processor
5– 9–78	056615	Classification: tractor suitable for agricultural use
5–11–78	056621	Classification: hot water heater
5–11–78	056624	Classification: spent nuclear fuel storage racks
5–17–78	056626	Classification: ammunition, plastic drawers, and aluminum foil food containers
5–10–78	056629	Classification: toy; duck on scooter
5–10–78	056632	Classification: wood and plastic cheese and cracker sewing pieces
5–17–78	056647	Classification: metal-forming machine tools
5– 3–78	056607	Classification: down-filled foot warmers
5–24–78	056648	Classification: blast cleaning machines
5–25–78	056659	Classification: lead acid storage batteries
5–26–78	056666	Classification: plastic sheets on a cardboard backing
5–25–78	056668	Classification: water taste purifier and filtering unit
5–23–78	056671	Classification: plastic sheets
5–24–78	056675	Classification: chewing stick and bone; dog grooming brush
6– 1–78	056687	Classification: engine valves
5–25–78	056691	Classification: floating dry dock
6–13–78	056609	Classification: saw blade segment

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6–15–78	056653	Classification: three-piece plastic ring component
6– 6–78	056656	Classification: automatic uniform dispenser
6– 6–78	056673	Classification: ski glove
6– 5–78	056679	Classification: steel tubing
5–30–78	056680	Classification: nut-washer combination
6–21–78	056688	Classification: galvanized steel tension bars
6–23–78	056644	Classification: denim knapsack
6–12–78	056658	Classification: yarn and cloth markers
6–23–78	056661	Classification: auxiliary aluminum fuel and water tanks
6–23–78	056669	Classification: cereal grain huller
7– 3–78	056672	Classification: aluminum, tin, and copper alloy clad metal
6–30–78	056684	Classification: steel twist bolt
6–23–78	056692	Classification: tractor undercarriage parts
7– 3–78	056693	Classification: milling machine with a scanner table and a work table
6–28–78	056694	Classification: solar energy collectors
6–30–78	056622	Classification: Varistat DC drive system
7–19–78	056623	Classification: wire spring and a plastic catch for use in furniture
7–13–78	056631	Classification: apres-ski boots
7– 7–78	056635	Classification: ride-on lawn mowers
7–14–78	056638	Classification: plastic compacts for eyeshadow
7–12–78	056645	Classification: inflatable packer element, used in oil wells
7–19–78	056646	Classification: air chuck used both as toolholder or workholder
7–10–78	056650	Classification: plastic tubing with detachable fitting
7–11–78	056664	Classification: mobile seating platform
7– 6–78	056681	Classification: ferrosilicon magnesium
6–30–78	056689	Classification: latch hook used for rugs
7–28–78	056603	Classification: television prompting system consisting of a television monitor, mirror, and script drive unit
8– 3–78	056614	Classification: desk lock
8– 3–78	056662	Classification: vinyl golf ball bag, designed to be attached to a mechanical device that picks golf balls off the ground
7–24–78	056674	Classification: parts of line printers used as peripheral equipment in data processing systems
8–16–78	056620	Classification: Bar mandrel for tube drawing
8–22–78	056660	Classification: rectangular brass bars; interpretation of the terms "thickness" and "rectangular" under headnote 3(a), Part 2C, Schedule 6, TSUS
9– 5–78	056676	Classification: wicker and straw decorator trunks with storage capabilities
10– 3–78	056604	Classification: acrylic hand puppet stuffed bunny toy
10–12–78	056614	Classification: steel cam lock and key mechanisms
8– 9–78	056667	Classification: "Poromeric leather", synthetic fabric with plastic coating

Date of Decision	File No.	Issue
9- 3-78	056654	Classification: wooden Santa Claus figures for decorating Christmas trees
6- 5-78	056730	Classification: electric sheet metal bending machines and prefabricated timber houses
6- 6-78	056711	Country of origin—sandals
6-16-78	056718	Classification: sheepskins
6- 7-78	056719	Classification: all-terrain vehicle
6- 9-78	056728	Classification: cast ductile iron anchors
6-16-78	056733	Classification: armored tank
6-15-78	056739	Classification: Mickey Mouse AM car radio
6-19-78	056740	Classification: submersible light fixtures
6- 9-78	056742	Classification: ecologger (for making fireplace logs from paper)
6-19-78	056743	Classification: interior automobile door trim
6-14-78	056745	Classification: propane heating unit
6-13-78	056746	Classification: motorcycle saddle bags
6-19-78	056747	Classification: center punch tool
6-13-78	056754	Classification: wooden-handled counter brush
6-13-78	056756	Classification: record brush and cleaner
6-15-78	056759	Classification: vinyl pile-lined glove
6-13-78	056760	Valuation: application of ASP to imported athletic footwear
6-13-78	056762	Classification: survival blanket of aluminum-coated polyester
6- 9-78	056773	Classification: column 1 or column 2 status for steel casings
6-21-78	056777	Classification: metering valve for irrigation
6-17-78	056782	Classification: doll wig and hairpieces, plastic comb and brush, doll hair curlers, and butterfly ornaments
6-15-78	056792	Classification: polyethylene tarpaulins
6-21-78	056796	Classification: polyethylene building forms
6-21-78	056797	Classification: single and multi-freewheels for bicycles
6-21-78	056798	Classification: garden hand tools
6-22-78	056737	Classification: wood burning furnace; wood-fired water boiler
6-23-78	056775	Classification: plastic cash register bank
6-27-78	056781	Classification: cross-country ski gloves
6-14-78	056783	Classification: prefabricated steel farm buildings
7- 3-78	056788	Classification: arbor press rough iron castings
6-30-78	056791	Country of origin: footwear; attachment of uppers to bottoms; substantial transformation
7-19-78	056703	Country of origin marking: coil steel; substantial transformation
6-30-78	056708	Classification: Gondola and hopper railway freight cars
7-19-78	056714	Classification: "Ziplock" (resembles a padlock in function)
7-13-78	056720	Classification: stainless steel splash guards for use on vehicles
7-13-78	056748	Classification: galvanized steel strip

Date of Decision	File No.	Issue
7–13–78	056757	Classification: stainless steel decorative wall panels
7– 7–78	056758	Classification: picture frames, illuminating signs, framed pictures, plaques, cards
7–10–78	056768	Classification: chemical temperature monitors
7–11–78	056770	Classification: acrylic sheets with one milled end
7–12–78	056772	Classification: decorative tea container
7–24–78	056763	Classification: blast furnace energy recovery turbine
8–10–78	056729	Classification: seam ripper blades used to cut and pull thread
8– 4–78	056769	Classification: platimun crucibles
7–24–78	056786	Classification: insulation blowing equipment
8–15–78	056709	Classification: mechanical pencil mechanism and point
8–15–78	056765	Classification: plastic bags
9–15–78	056764	Classification: Wheel flange lubricator consisting of electronic control unit, lubricant distributor and spray nozzles, imported with all necessary tubing and fittings.
8–16–78	056750	Classification: polyester yarns partially covered with aluminum
6–21–78	056806	Classification: adhesive laminating machine and automatic melding machine
6–21–78	056807	Classification: denim buffalo sandals, plastic combs, and peacock feather hand fans
6–15–78	056809	Classification: pre-galvanized steel channels
6–26–78	056815	Classification: tractor-drawn scrapers
6–27–78	056824	Classification: stainless steel compression type tube fittings; brass tube fittings
6–30–78	056828	Classification: rubber wheel casters
6–26–78	056829	Classification: contaminated mercury
6–28–78	056830	Classification: quenched and tempered steel oil well casing
6–23–78	056831	Classification: plastic toy disguise articles
6–27–78	056833	Classification: electrical contact tape wire
6–26–78	056839	Classification: solar powered electric fence energizer
6–28–78	056846	Classification: automobile coffee maker
6–30–78	056848	Classification: vinyl golf bag
6–26–78	056857	Classification: freestanding portable metal fireplace
7– 3–78	056861	Classification: plastic flowers assembled with wire and/or glue
7– 3–78	056865	Classification: cold water high-pressure cleaner for agricultural and industrial use
6–28–78	056867	Classification: automobile spotlight and maplight
7– 3–78	056883	Classification: automobile utility light
7– 3–78	056899	Classification: off-highway dump truck
6–29–78	056804	Classification: combination wood and oil furnace
7–14–78	056819	Classification: hand-generator lights
7– 5–78	056823	Classification: dump truck; exemption of three components of United States origin from duty
7–19–78	056825	Classification: hydrostatic speed variator

Date of Decision	File No.	Issue
6–28–78	056838	Classification: wood oars for row boats
7–11–78	056847	Classification: shopping bag
6–30–78	056849	Classification: sprinklers and component parts of sprinklers
7–10–78	056855	Classification: flat-bed highway semi-trailer
7–10–78	056856	Classification: jigsaw puzzle postcards
7–14–78	056862	Classification: hydraulically operated aerial work platforms
7– 6–78	056863	Classification: heat recovery and ventilation unit
7– 6–78	056866	Classification: plastic pedals for tricycles and small bicycles
7–13–78	056870	Classification: steel tapered tubes
6–30–78	056873	Classification: electrical high frequency brazing apparatus used to sandwich steel and copper on pots
6–30–78	056880	Classification: plastic bookmarks
7– 6–78	056881	Classification: educational puzzles
7– 6–78	056885	Classification: unhardened sheet metal screws for use in wood
7–13–78	056889	Classification: motorized hang glider
7– 7–78	056890	Classification: camper tent trailer
7– 7–78	056898	Classification: various articles of stainless steel flatware
7–21–78	056805	Classification: power pack and wall charger for a continuously operating baby swing
7–21–78	056853	Duty assessment: titanium sheets rolled in column 1 country from ingots originating in column 2 country
8– 1–78	056812	Classification: soft drink making system
7–28–78	056835	Classification: tapered hardpaper tubes used by textile industry to hold thread or yarn
8– 2–78	056842	Classification: tungsten melting base
8– 1–78	056871	Classification: brooms
7–24–78	056888	Classification: log splitters
8–17–78	056800	Classification: friction clutch
8–15–78	056840	Classification: blind and pop rivet component and a rivet nut
8–16–78	056843	Classification: mink paw plate
7–13–78	056870	Classification: tapered steel tubes
7–18–78	056872	Duty assessment: dutiability of reimported merchandise; definition of exportation and importation
8–15–78	056877	Classification: various cable strippers and wire strippers; circuit board holders; desoldering tool; extractor inserter
8–17–78	056879	Classification: ribbon solder by component material of chief weight
7–13–78	056810	Classification: hand puppets
9– 5–78	056818	Classification: split drive pin fastener used with pneumatic guns
7–12–78	056859	Classification: racquetball wristband
8–22–78	056803	Classification: various industrial gloves

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Date of Decision	File No.	Issue
9– 1–78	056834	Classification: polythylene bags, used as trash bags and sandwich bags
9–13–78	056841	Classification: plastic transfer decals
9–12–78	056851	Classification: metal detector used to detect metal in food
10– 3–78	056886	Classification: cathode ray tube video display terminals
8–23–78	056897	Classification: coat made from rayon flocking
7– 3–78	056903	Classification: portable wood board shelf units
7– 3–78	056905	Classification: plastic jewelry box
7– 3–78	056920	Classification: plastic snap fasteners
7– 6–78	056906	Classification: velvet covered plastic jewelry box
7–13–78	056914	Classification: cow trainer—gives electrical shock
7– 7–78	056915	Classification: girl's split cowhide mitten
7–12–78	056923	Classification: knife with snap off blades
7–13–78	056932	Classification: "stadia baffle"—camera part
7– 6–78	056935	Classification: down-filled insulated sock
7–13–78	056947	Classification: galvanized steel tension bars
7–13–78	056955	Classification: heavy duty commercial BBQ machines
7–19–78	056958	Classification: plastic case for playing cards with a pencil enclosed
7–14–78	056960	Classification: wooden book rack
7–19–78	056966	Classification: substantial transformation of bamboo shells into a handbag for column 1 rate of duty
7–24–78	056951	Classification: flanged spools used in manufacturing or shipping wire or cable
7–21–78	056972	Classification: sugar cane harvester
8–10–78	056900	Classification: Francis-type reversible pump turbine
7–28–78	056901	Classification: farrowing crates, weaner cages, sow stalls, box feeders, and horse stalls
7–28–78	056908	Classification: "Brutal Shark Game" novelty pen
8– 8–78	056909	Classification: soil pasteurizer and sterilizer
7–28–78	056913	Classification: "sports bags"—one type designed to carry baseball bats, and a second type designed to carry articles such as sport shoes or gym clothes
8– 2–78	056917	Classification: polyethylene aprons designed for use by food service personnel
7–24–78	056919	Classification: wire strainers used to keep fencing uniformly taut
7–23–78	056929	Classification: cast-iron and concrete manhole covers and frames
8– 1–78	056934	Classification: carryall bags with straps and zippered closures, made of man-made fabric
8– 1–78	056944	Classification: bearings used primarily in skateboards
7–24–78	056945	Classification: panels for electrostatic precipitators used for air or gas purification
8– 8–78	056952	Classification: engine and jet pump used in manufacture of a "wetbike"
8– 3–78	056959	Classification: gall extraction machine used to recover gall from the gall bladders of slaughtered animals

Date of Decision	File No.	Issue
7–28–78	056968	Classification: containers and carriers used in the collection and transport of refuse
8– 7–78	056971	Classification: metal jewelry pin imprinted with a woman's figure and flowers
7–28–78	056978	Classification: unperforated buttons which have been face finished, beveled and polished
8– 7–78	056980	Classification: finished and unfinished fuel element bundles used in nuclear reactors
8– 4–78	056986	Classification: saddle to be used in the manufacture of wire rope clips
8– 2–78	056989	Classification: Rockstar X–16 Tire Protection Chain
8– 9–78	056992	Classification: plastic sleeving in material lengths for use as electrical insulation
8– 8–78	056997	Classification: rubber slippers having two piece uppers
8–10–78	056999	Classification: polypropylene strapping
8–17–78	056904	Classification: rapid transit equipment
8–11–78	056939	Classification: Various sizes of seamed stainless steel tubing; additional duties for chromium and molybdenum content
7–13–78	056947	Classification: Galvanized steel tension bars
8– 6–78	056998	Classification: Penlight and pocket torch flashlights; various sized batteries
8–31–78	056911	Classification: scroll-cut tinplate
8–22–78	056926	Classification: snowmobile boot
8–30–78	056946	Classification: plastic Clydesdale horse and cart
9– 5–78	056974	Classification: plastic toy shapes imported in bulk for packaging into toy building sets
9– 1–78	056907	Classification: Polythene bags, wrapping sheets, and film strips; freezer bags
9–11–78	056943	Classification: Seed hopper for feeding canaries, parakeets, and other small birds; a pidgeon/parrot cup drinker; an incubator hospital and drying cage used to treat sick birds
9–13–78	056962	Valuation: Application of the ASP basis of valuation to certain imported footwear
9–14–78	056970	Classification: Various hydraulic hand tools and accessories
9–13–78	056979	Classification: "Composition horn buttons"
9–27–78	056933	Classification: Various self-adhesive materials
9–26–78	056953	Classification: Electrical ozone device for use in automobiles or small rooms
10– 4–78	056965	Classification: aircraft galleys and various aircraft food service equipment
10–12–78	056983	Classification: unfinished shoe uppers
10–20–78	056981	Classification: ornamented shoe uppers
8– 8–78	057003	Classification: various articles of bronze, including, candleholders, kerosene lamps, chalices, ash trays, jewelry boxes, door knockers, bells, animal figures medallions and plaques, and decorative cannon

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8–10–78	057010	Classification: metal and plastic "telephone freshener" containing antiseptic perfume and designed to be snapped into speaking end of telephone receiver
8– 9–78	057026	Classification: disposable polyethylene aprons
8– 4–78	057027	Classification: plastic "thread snipper"
8– 2–78	057029	Classification; plastic size-adjuster for caps
8– 4–78	057037	Classification: steel corn holders
8– 3–78	057038	Classification: tapered steel tubes
8– 8–78	057040	Classification: "Phostoxin Tube," an aluminum tube used to store toxic substances
8– 9–78	057059	Classification: leather and suede snowmobile glove
8– 8–78	057072	Classification: playground equipment
8– 9–78	057076	Classification: packaging machinery
8–10–78	057079	Classification: toy cannon with cap-firing mechanism
8– 9–78	057106	Classification: filter for tap water
8–15–78	057000	Classification: Non-daltonite platinate coated titanium anodes
8–17–78	057020	Classification: Controllable pitch propeller; bow thruster
8– 9–78	057023	Classification: Acrylic sheets
8–17–78	057034	Classification: Refrigerators to be installed in mobile homes and recreational vehicles
8–17–78	057042	Classification: Fiberglass reinforced plastic underground storage tanks for petroleum products
8–17–78	057061	Classification: Radial drill and vertical machining center which incorporates a numerical control unit
8–15–78	057067	Classification: Roller skate boat
8–15–78	057070	Classification: Aluminum heater/coolers for extruder or die barrels
8–11–78	057071	Classification: Vinyl shopping bag
8–17–78	057081 (x056539)	Classification: Metal underhood lamp use to light up engine of a car when the hood is raised
8–17–78	057109	Classification: Plastic sleeves and reduction adapter which join two or more laboratory test tubes
8–15–78	057127	Country of origin marking: Substantial tranformation of various footwear components
8–17–78	057128	Classification: Aircraft seats
8–29–78	057001	Classification: skin-diving equipment—boots, gloves, hood, jacket and pants
8–18–78	057015	Classification: PVC travel cosmetic case with snap closing flap
9– 1–78	057063	Classification: pile driver and extractor used on sheet pilings in sewage construction applications
9– 5–78	057065	Classification: dental floss holder/toothpick combination
8–29–78	057075	Classification: yarn beam for holding warp thread during weaving
8–31–78	057083	Classification: 60/100 MVAR shunt reactor, used to control high-voltage systems

Date of Decision	File No.	Issue
8–29–78	057101	Classification: non-return valve for preventing the backflow of contaminated water in water systems
8–29–78	057132	Classification: plastic covers for microfilm viewer
9– 1–78	057152	Classification: general purpose plastic containers
8–29–78	057153	Classification: metal perforating press
8–30–78	057158	Classification: disposable toothbrush with dentrifice impregnated in the bristles
8–30–78	057173	Classification: automobile spotlight designed to be plugged into an automobile cigarette lighter receptable
8–30–78	057181	Classification: kite
8–30–78	057199	Classification: plastic baby's bib
9–20–78	057002	Classification: "Firewind" barbecue and fireplace lighter which uses gas-air mixture
9–20–78	057004	Classification: Latex monster masks, hands, and feet
9–20–78	057011	Classification: Steel tow hooks
8–17–78	057044	Classification: Various remote control radio apparatus for toy model planes, boats, etc.
9– 5–78	057048	Classification: Nipple shields
9–12–78	057054	Classification: "Haulmajor" spotting tractor
9–12–78	057077	Classification: "Quick-Slingair", sail-mixing machine
9–12–78	057088	Classification: Various counter cabinets and related articles
8–25–78	057094	Classification: Rubber horse boots used to protect the horse from self-inflicted injury
8–30–78	057113	Classification: Spinning fishing lure
9–13–78	057114	Classification: Rubber garden hose
9–12–78	057118	Classification: Portable mist blower/crop duster/flame thrower
9– 8–78	057133	Classification: Low level temperature monitor
9–12–78	057150	Classification: Magnetic soap holder
9–20–78	057174	Classification: Vinyl suction ball used with a breast pump horn to store breast milk
9–12–78	057191	Classification: Vinyl loose-leaf binder
9–20–78	057197	Classification: "Shore Horse" conveying unit and two trailers used to carry aquatic plant harvesting units
9–13–78	057201	Trade Fair: Part of a machine tool entered into bonded warehouse may be withdrawn for exhibition at authorized trade fair and then re-entered at warehouse under same entry
9– 8–78	057205	Classification: "Wet Dust Collector", an air cleansing system employing a water wall-washed filtering process
9–11–78	057211	Classification: Scroll-cut tin plate
9–11–78	057215	Classification: Metric conversion kit, a speedometer sticker that converts miles per hour to kilometers per hour
9–12–78	057218	Classification: Substantial transformation of unfinished shoe components for country of origin and classification purposes

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9–20–78	057219	Classification: Table tennis set
9–20–78	057240	Classification: Knife with a plastic handle
9–14–78	057262	Classification: Wheel type tractor for agricultural use
9–26–78	057049	Classification: Unfinished leather coat frame
9–28–78	057073	Classification: Components of electronic musical instruments
9–28–78	057143	Classification: Metal pot cleaners; plated steel wire mesh, plated wire
9–27–78	057163	Classification: Apparatus for cleaning pulp and paper stock by centrifugal action
9–28–78	057170	Classification: Alloy steel stud bolts
9–21–78	057171	Classification: Plastic field harvesting containers
9–28–78	057172	Classification: "Kiwi" shoe shine kit
9–28–78	057175	Classification: Automatic retractor holder; a surgical retaining device for holding surgical instruments; X-ray cassette holder for holding cassettes during an operation
9–21–78	057203	Classification: Die-casting machine for producing aluminum molds
9–26–78	057213	Classification: Screw hooks
9–21–78	057216	Classification: "Sonic" self-adjustable multi-wrench
9–26–78	057254	Classification: Physical training set consisting of one barbell and two dumbbells
9–26–78	057263	Classification: Fully equipped fold-down camping trailer
9–25–78	057282	Classification: Disposable styrene petri dish used in hospitals and laboratories
9–21–78	057283	Classification: Child's cloth book with various felt pieces in the shapes of dolls, doll clothing, clocks, numbers, puzzle pieces, etc., inside
9–27–78	057287	Classification: Willow magazine rack
9–26–78	057294	Classification: Electroplastic fencing twine used in electric fence
9–26–78	057295	Classification: One piece sandal
10– 3–78	057033	Classification: "Tiller tender", used to hold the tiller of a sailboat
10–13–78	057041	Classification: steel mill chain, drag chain, roll top chain and roof top chain
10– 4–78	057050	Classification: italic pen set and booklet
10– 6–78	057068	Classification: wooderaft flower kit
10–12–78	057093	Classification: modular cabinets; industrial enclosures; fiberglass insulators
9– 8–78	057097	Classification: cotton tennis visor
10– 1–78	057124	Classification: iron castings for motor cases and rotors
10– 3–78	057131	Classification: broom dolls
10–13–78	057136	Classification: plastic figures of horses and owls
10– 1–78	057147	Classification: cotterless crank sets, hubs and free wheel sprocket
10– 4–78	057150	Classification: magnetic soap holder

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10–11–78	057154	Classification: tubular screw ton and a syringe
9–20–78	057179	Classification: egg collection system; manure cleaning system
10– 3–78	057182	Classification and valuation: applicability of ASP appraisement to woman's open toe and open back sandal
10– 3–78	057207	Classification: corn straw broom
10–12–78	057230	Classification: plastic typhoon sun visor with snaps
10–11–78	057239	Classification: electric mini-lamp with plastic Santa Claus attached
10– 3–78	057277	Classification: hydraulically operated rotary valve for use with a reversible pump turbine
9–29–78	057289	Classification: down trail socks
10–11–78	057500	Classification: various furniture pieces
10– 3–78	057316	Classification: plastic sheets for use as dividers in loose leaf notebooks
10– 3–78	057322	Classification: plastic flying discs—also known as frisbies
10– 3–78	057325	Classification: dental lamp and extension arm
10–10–78	057334	Classification: rattan shell handbag; substantial transformation
10– 4–78	057340	Classification: plastic finger puppets
10–12–78	057349	Classification: butterfly knife, with folding blade
10–12–78	057355	Classification: orthopedic shoes
10–20–78	057035	Classification: electrical device used to electrolyze various minerals dissolved in water and to separate alkalized ionized water and acidic water
10–18–78	057125	Classification: slipper tree, an apparatus for weaving mukluks and similar footwear
10– 4–78	057222	Classification: aircraft engines originally manufactured in the U.S. reentered for salvage purposes
10–12–78	057273	Classification: cast iron insert used in the housing of a gear shaft on a military vehicle
10–20–78	057317	Classification: coils for an electric motor of under 1/40 horsepower
10–10–78	057318	Classification: oil bottle that attaches to machinery to lubricate it; 6-inch scraper block which acts as a pulley
10–20–78	057337	Classification: rubber adult-size head masks
10–13–78	057360	Classification: steel railroad car axles
10–20–78	057368	Classification: safety/relief values used on main steam lines of reactor pressure vessels
10–20–78	057373	Classification: plastic-coated gloves
10–20–78	057391	Classification: 1/2 bushel harvesting hamper
10–24–78	057400	Classification: polypropylene fabric placemats and ornamented rayon fabric placemats
10–20–78	057402	Classification: cube puzzle, object of which is to line up smaller cubes of the same color on each side of larger cube

Date of Decision	File No.	Issue
10–24–78	057430	Classification: ski gloves
10–25–78	057156	Classification: tote bag in chief value of raffia
10–27–78	057183	Classification: thread clips or thread snippers
10–26–78	057272	Classification: bicycle hub brake and axle
10–25–78	057281	Classification: motorized surfboard
10–25–78	057292	Classification: cluster remover, designed to remove free-wheels from bicycles
10–25–78	057369	Classification: wood and canvas chairs
10–25–78	057383	Classification: official coin of gold and silver
10–26–78	057403	Classification: auto spotlight of plastic, designed to be plugged into cigarette lighter
10–31–78	057437	Classification: steel blades used in automatic peach pitting and other food processing machines

Miscellaneous and Special Provisions Classification Branch

5–18–78	058015	Classification: decompression calculator and monitor
5–11–78	058217	Classification: electrical cable for x-ray tube and generator
7–14–78	058225	Classification: applicability of item 801.10, TSUS, to reimportation of items that originally entered the United States duty-free under GSP
6– 1–78	058239	Classification: retractable metal measuring tape
6–17–78	058247	Classification: applicability of item 800.00 or 806.20, TSUS to capacitors sent abroad solely for removal of epoxy encapsulation
6–27–78	058260	Classification: thermostats and sensory devices
6– 7–78	058265	Classification: modems—devices which transmit data by wire
6–14–78	058298	Classification: applicability of item 806.30, TSUS, to articles of metal of United States origin exported for processing and returned to the United States for further processing
6– 2–78	058314	Classification: reimportation of non-bilingually labeled merchandise pursuant to item 801.10, TSUS
6–14–78	058318	Classification: Hummel figurines and plates
6–29–78	058319	Classification: X-ray opaque film identification markers
6–30–78	058326	Classification: AM/FM phono chassis; interpretation of an "unfinished" article
6–19–78	058334	Classification: lead frames damaged due to rust, re-imported into United States; applicability of item 801.10, TSUS, to merchandise which originally sought drawback; rust could prevent an article from meeting specifications within the scope of 801.10, TSUS
6–23–78	058341	Classification: damaged metal aircraft turbine engine nozzle vanes processed en Mexico with intermittent returns to United States

Date of Decision	File No.	Issue
7–14–78	058356	Classification: Importation of costume articles by a university dance group pursuant to item 862.10, TSUS, or item 861.30, TSUS
7–17–78	058218	Classification: "Mr. Putty", a silicone compound
7–28–78	058272	Classification: "Telecoster", a device which calculates a telephone conversation billing time
8– 4–78	058392	Classification: PVS 100 paging terminal, a solid-state micro computer controlled system
6–30–78	058393	Duty Assessment: Effect of Presidential Proclamation 4561 upon certain transceivers of Jamaican manufacture
7–10–78	058406	Entry: Whether American-made stained glass sent to Canada for bending and returned is "imported"
8– 4–78	058427	Classification: Respirometer—a device which measures inspiratory and expiratory volumes
8–29–78	058467	Classification: Tray covers die-cut in Mexico from rolls of plastic of U.S. origin are not entitled to entry under item 800.00, TSUS
8–28–78	058496	Duty Assessment: Entry under item 807,00. TSUS, of certain items of wearing apparel assembled in Mexico
8–28–78	058498	Classification: Hand-made Kyoto doll; criteria for classification under item 765.15, TSUS; principle of relative specificity
9– 7–78	058504	Duty Assessment: Entry under item 807.00, TSUS, of certain items of wearing apparel assembled in Haiti;
8–28–78	058506	Classification: Whether photo transparencies and slides are within purview of item 274.70, TSUS or 851.10, TSUS
8–24–78	058515	Duty Assessment: Whether metal must necessarily be a product of the United States for purposes of treatment under item 806.30, TSUS
9–20–78	058246	Duty assessment: Presence of the basic operating components of a circuit board assembly, whether assembled or unassembled, constitute an unfinished CB radio for tariff purposes
9–20–78	058547	Duty assessment: Picture frames that are made abroad from components of U.S. origin that are exported ready to be assembled, are entitled to item 807.00, TSUS, tariff treatment; other component materials such as lumber exported as a raw material and fabricated abroad, not entitled to item 807.00, TSUS, tariff treatment upon return
9–22–78	058550	Duty assessment: Whether citrus fruit exported for the purpose of removing the peel and placing sections or slices in glass containers for use as a citrus salad is entitled to item 806.20, TSUS, treatment upon return to the U.S.

Date of Decision	File No.	Issue
10–20–78	058541	Classification: pressure sensitive regulator which regulates the flow of propane gas
9–28–78	058567	Duty assessment: Faberge Jasper Box
8–30–78	058241	Classification: various silkscreen articles
10– 2–78	058442	Classification: pathfinder type "F"—designed to indicate the passage of fault current in overhead lines by continuously monitoring the electromagnetic field several feet below the conductors
10– 2–78	058478	Classification: television and film lens testing system designed to test the quality and check the optical performance of television and film lenses
9–29–78	058534	Classification: metal wardrobe cabinet; femoral prosthetic device that replaces muscle tissue in the leg
10– 2–78	058551	Classification: application of item 807.00, TSUS, to certain U.S. components exported and assembled abroad into finished gauze sponges and then imported to U.S.
9–29–78	058571	Classification: application of item 807.00, TSUS to certain pre-cut textile components exported for assembly into footwear uppers
9–27–78	058574	Classification: certain nylon and polyester-cotton knit fabrics exported for polyvinyl chloride laminations and returned to the U.S.
10– 3–78	058577	Classification: whether streetcars imported by a municipal corportation, and used to transport passengers for a fare, may quality for entry under either item 862.10, or 862.20, TSUS
10– 5–78	058608	Classification: "Statibrush", a record cleaning brush

Materials Classification Branch

6–15–78	059009	Classification: woven denim jeans to which a D-ring is attached
7– 9–78	059026	Classification: woven cotton fabric that has been coated with an adhesive and flocked with wool fibers
7–12–78	059048	Classification: Dioctyl Phthalate, used as a plasticizer for resins and synthetic rubbers
7–24–78	059069	Classification: Cyclandelate, an antispasmodic
5– 5–78	059024	Classification: peroxygen mixture
8–23–78	059046	Classification: hook and eye fastener assemblies, which are attached to brassieres
8–10–78	059054	Classification: woven cotton fabric coated with a plastic material; merchandise consisting of a surface layer of grained polyvinyl chloride which has been bonded to a layer of foamed polyvinyl chloride
5–31–78	059091	Classification: corned beef
8– 1–78	059108	Classification: rectangular-shaped hand embroidered woolen shawl, hand embroidered woolen muffler, short

Date of Decision	File No.	Issue
		sleeve, V-neck, hand embroidered silk and cotton blend woman's blouse
7–24–78	059116	Classification: woven fabric laminated on both sides with transparent polyethylene film
8–16–78	059122	Classification: man's cotton denim jeans with double rows of piping on the rear patch pockets
8–23–78	059123	Classification: various drywall fillers and ceiling textures
9–20–78	059125	Classification: woven polyethylene fabric used as curtains for chicken houses
9– 5–78	059130	Classification: man's fishing jacket
8– 1–78	059131	Classification: various cleaning and preservative products used in recreational vehicles
8– 1–78	059140	Classification: lemon bioflavonoid complex, orange bioflavonoid complex, citrus bioflavonoid complex
5– 9–78	059157	Classification: industrial cleaning chemicals
7–17–78	059166	Classification: polyester, cotton brown jeans; ornamentation
7– 5–78	059171	Classification: "screen sheer", woven polyester fabric
9–26–78	059182	Classification: drip dry clothesline kit
9–20–78	059183	Classification: double knit fabric
6–29–78	059195	Classification: various printed matter
7– 5–78	059121	Classification: woven fabrics of man-made fibers, coated with a polyethylene film
6–21–78	059223	Classification: oven mitt potholder of woven fabric
6–12–78	059227	Classification: cotton pillowcases and comforters
5–16–78	059277	Classification: topping cloth
10– 2–78	059256	Classification: various grades of paper: tea bag stock, cigarette plug wrapper stock, and cork tipping paper
7–12–78	059255	Classification: apple baskets of wood
10–25–78	059267	Classification: shirts to which textile labels bearing stylized lettering have been affixed
6–27–78	059292	Classification: lead gasoline additives
5–22–78	059216	Classification: natural and composite work
6–21–78	059225	Classification: wooden coat and hat rack
7–19–78	059229	Classification: man's cotton denim blue jeans
7– 7–78	059236	Classification: Bok-Chay and Napa—fresh vegetables
7–17–78	059243	Classification: labels sewn on outside of garments: ornamentation
6– 9–78	059245	Classification: dehydrated wheat base snack product
9–26–78	059275	Classification: sleeveless, V–neck, sweater vest; long sleeve pullover sweater
7– 5–78	059281	Classification: woman's cotton raincoat
6–27–78	059282	Classification: various disposable party good items
9–13–78	059283	Classification: men's cotton and polyester pullover shirts
9–21–78	059300	Classification: wood and textile drapery tieback
5–16–78	059302	Classification: lightweight, waist length jacket
9–29–78	059309	Classification: stoles, scarves and shawls

Date of Decision	File No.	Issue
8-23-78	059319	Classification: dental grand sodium lauryl sulfate
7-17-78	059325	Classification: man's plaid woven CPO jacket—shirt
9-15-78	059330	Classification: boys' jockey uniforms
7-17-78	059335	Classification: unrefined brown sugar hardener into blocks
5-16-78	059311	Classification: cotton cincture cords with tassel at each end
7-19-78	059344	Classification: barytes (barium sulfate) in the form of filter cake
7-13-78	059376	Classification: woven fabrics of nylon
7-13-78	059399	Classification: Struktol 30 (40MS), a product derived from fractionation of asphalt
8-16-78	059340	Classification: cotten woven boxer-type swimming trunks
7-25-78	059341	Classification: string cotton knot bikini
10- 6-78	059346	Classification: plywood with a face ply of Virola (Banak) or Muiratinga (Marfim)
7- 7-78	059348	Classification: unornamented polyethylene net fabric
5- 9-78	059364	Classification: hibiscus flowers used as medicinal herb tea
8-23-78	059375	Classification: GSP: handmade rugs from Nepal
7- 7-78	059355	Classification: electrostatic lettering kit
7- 7-78	059380	Classification: catalogs relating to current offices for sale of U.S. goods
10-4-78	059389	Classification: sports shirt
10-4-78	059391	Classification: brassiere straps
7-31-78	059392	Classification: Laparotomy sponges, used to absorb blood during operations
9-20-78	059398	Classification: polypropylene swimming pool covers
7-25-78	059409	Classification: tubular braids with no cores
8-16-78	059411	Classification: baby formulas in powder form
9-20-78	059421	Classification: machine made rugs with wool pile
10- 6-78	059422	Classification: microthiol, a pesticide
7-31-78	059423	Classification: cotton fabric embroidered with wool
9- 8-78	059432	Classification: child's woven cotton apron stamped with a pattern for the purpose of embroidery
6- 9-78	059433	Classification: pompons made from a plush pile fabric
8- 1-78	059434	Classification: unspun hemp baskets; abaca potwrap
6-15-78	059436	Classification: man's raincoat
7- 6-78	059443	Classification: rattan chairs and ottomans
6- 9-78	059490	Classification: wax crayons
8-31-78	059438	Classification: hanging paper base stock
7-25-78	059440	Classification: grated dried mozzerella cheese
6-27-78	059442	Classification: aerosol spray composed of lidocaine and aerosol propellant designed to reduce tactile sensitivity
6-27-78	059446	Classification: religious booklets
8-10-78	059451	Classification: air dried green onion flakes
6-27-78	059453	Classification: boys' snowmobile suits, down-look jacket, bib snow pants and down-look vest

Date of Decision	File No.	Issue
8- 7-78	059469	Classification: various lithographed promotional materials
9-29-78	059470	Classification: marking; country of origin: copyright: various printed products
10-26-78	059419	Classification: various materials faced with banana bark
7-13-78	059450	Classification: T-shirt with stylized label
7-13-78	059461	Classification: m-tolylthioacetic acid
7-24-78	059484	Classification: Endomine-MMF/LS, or casein hydrolystate, hydro glycolic extract
9-12-78	059471	Classification: woman's knit shawl and fascinator
6-15-78	059477	Classification: printed pictorial matter used in teaching French
7-31-78	059480	Classification: shirts with hanger loops; ornamentation
9- 1-78	059481	Classification: carob powder
9- 1-78	059488	Classification: oval baskets made from the center rib of coconut leaves
7- 3-78	059494	Classification: handloom tussah silk fabric
7-12-78	059572	Classification: rattan display rack
8-10-78	059504	Classification: cloth book with pictures of animals and inan mate objects
7-24-78	059500	General Information: importation of cotton textiles
7-24-78	059503	Classification: cheeses
10- 4-78	059505	Classification: family tree kit
7-17-78	059521	Classification: apple and fruit juice mixture
9- 1-78	059522	Classification: demineralized whey protein powder
8-23-78	059532	Classification: book on yacht racing rules, with accompanying kit of plastic symbols representing yachts
8- 1-78	059533	Classification: aerosol time inflator for space saver tires
9- 8-78	059536	Classification: foamboard—used as a display board
8- 7-78	059540	Classification: guava marmalade
8-16-78	059546	Classification: ghee—a clarified butter
9- 5-78	059548	Classification: laminated particle board, gyproc board, and hardboard
7-11-78	059549	Classification: chemically treated pine cones—used as firewood
7-31-78	059550	Classification: silk-screen printed cotton T-shirt
9-15-78	059552	Classification: outdoor wall coating with pigments and acrylic resins
7-17-78	059560	Classification: 3-cyano pyridine (picotinic nitril)
7-13-78	059501	Classification: yarns of man-made fibers, one type being of continuous fibers without a twist, the other being multifilament two ply texturized yarn with less than 20 turns per inch
7-13-78	059509	Classification: softwood siding
7- 7-78	059526	Classification: olive oil
10-25-78	059542	Classification: ski, jackets with plastic exterior, nylon lining, and polyester batting
7-24-78	059555	Classification: benzenoid product used as a swimmiug pool sanitizer

Date of Decision	File No.	Issue
7–24–78	059516	Classification: garlic paste (crushed garlic)
9–12–78	059561	Classification: nonwoven fabric, consisting of nylon fibers impregnated with a plastics material
7–24–78	059565	Classification: wood veneer edge-banding
9–20–78	059570	Classification: woman's knit pullover, v-neck sweater; turtleneck sweater
7–25–78	059571	Classification: loosely plain woven mesh fabric
8–10–78	059574	Classification: methyl-2 bromo butyrate
8–10–78	059575	Classification: children's snowsuits
8– 9–78	059578	Classification: tart shells
8– 7–78	059583	Classification: baby bibs
7–31–78	059584	Classification: man's plaid woven CPO jacket shirt
9– 1–78	059587	Classification: printed text book
9–20–78	059594	Classification: various pyrazine compounds
8– 1–78	059597	Classification: fortified wines and brandies
8–23–78	059598	Classification: cellophane frilled wooden toothpicks
7–24–78	059637	Classification: zinc sulfate
10–20–78	059646	Classification: papers impregnated and coated with vinyl elastomers or polyamide resins
8–23–78	059671	Classification: fringed polyester hammocks woven from yarns of American origin
10– 6–78	059602	Classification: "tetrasodium ethylene diamine tetra-acetate powder"
9– 1–78	059610	Classification: glazed wood window casements
8–23–78	059613	Classification: marking paint
9–26–78	059614	Classification: short-sleeve men's shirt
8–10–78	059626	Classification: various herbal teas
8– 1–78	059627	Classification: infant's rounded bottom short sleeve T-shirt; ornamentation
8– 1–78	059632	Classification: frozen cheese, bacon and egg flan (quiche)
8–16–78	059639	Classification: Arabian horses
9–12–78	059650	Classification: nonwoven fabric laminated with plastics and made to simulate leather
8–10–78	059653	Classification: Asadero cheese
9–20–78	059657	Classification: White cheese
8–16–78	059665	Classification: organo tin mercantide used to provide thermal protection to polyvinyl chloride resin
9–20–78	059673	Classification: basket made from bamboo, nito, and split buri
9–21–78	059678	Classification: coated nylon fiber fabric
8–16–78	059692	Classification: manganese ethylene bisdithiocarbamate—an agricultural fungicide
8–23–78	059685	Classification: cyanoacrylate adhesive, and ethoxylated difunctional methacrylate monomers, used as adhesives or sealants
9–20–78	059697	Classification: "non-poultry chicken fat" made from hydrogenated cottonseed oil

Date of Decision	File No.	Issue
8–16–78	059619	Classification: dead insects, *apis mellifera adansonii*
9–26–78	059723	Classification: knit terry shorts
10–12–78	059700	Classification: pigweed seeds, used to produce a food product known as Quinoa
10–28–78	059717	Classification: epoxy glues and putty
8–30–78	059733	Classification: handmade Indian rugs of wool
9–26–78	059738	Classification: shelled cashew nuts
10–20–78	059742	Classification: plied twine of man-made fibers
10–20–78	059771	Classification: selenium sulfide, used in antidandruff preparations
10–20–78	059783	Classification: fungicide antibiotic used to combat the formation of molds and yeasts on cheese
10–12–78	059784	Classification: invertase enzyme derived from yeast, used to break down disaccharide sucrose into its component sugars
10–18–78	059785	Classification: dried, inactive yeast
10–12–78	059788	Classification: product containing alpha amylase enzyme
10–16–78	059789	Classification: an active wine yeast used in the production of wine
8–30–78	059703	Classification: cotton pillowcases and pillow protectors
9–26–78	059708	Classification: commingled soybean powder and garlic powder
10– 4–78	059714	Classification: apple granule product
10– 4–78	059716	Classification: electrical crane scales, fork lift truckscales and chipboard pallets
10– 6–78	059719	Classification: unframed picture made of dried wheat stalk
8–23–78	059721	Classification: rolled mugwort—plant substance
9–21–78	059729	Classification: flocked man-made fiber fabric; rubber sheeting material
10– 6–78	059740	Classification: papaya pulp
9–15–78	059741	Classification: baby bonnets and children's and adult's cloth hats
8–30–78	059751	Classification: bib ski trousers with non-functional metal D-ring
9–20–78	059758	Classification: Nucita, a chocolate product which can be eaten directly or used as a spread on bread
8–23–78	059762	Classification: five ply plywood
9–26–78	059766	Classification: girl's cotton skirt; long sleeve pullover shirt with a drawstring bottom; patch pocket pullover shirt
9–21–78	059768	Classification: crude papain—made from papaya
9–20–78	059777	Classification: toilet soap, talcum powder, bath cubes, and bubble bath
9–21–78	059779	Classification: infant's cotton jeans with a non-contrasting textile strip
9–12–78	059797	Classification: prospectus, in pamphlet form
10– 4–78	059805	Classification: annato seed, extracts, bixin and norbixin
9–29–78	059814	Classification: fertilizer grade ammonium chloride

Date of Decision	File No.	Issue
10- 6-78	059818	Classification: nylon "tote" bag
9-29-78	059825	Classification: goose liver paste
10- 6-78	059876	Classification: cheese product—a mixture of Gouda cheese, Swiss cheese and semi-soft part skim cheese
10- 6-78	059891	Classification: Barium sulfate preparation—an X-ray diagnostic product used by radiologists
10-12-78	059914	Classification: N-(2-hydroxyethyl) ethyleneimine—used in the manufacture of pharmaceutical and agricultural products
10-16-78	059808	Classification: food powder ingredient called Babaroise-powder
10-25-78	059819	Classification: wood easel pie plate
10-18-78	059828	Classification: food supplements made of sorbic acid in mixture with other chemicals
10-24-78	059855	Classification: plywood with a face ply of Pau Marfim
10-16-78	059862	Classification: "Jerusalem granola," a food product of rolled oats, brown sugar, coconut, sesame seed, wheat germ, vegetable oil, almonds, vanilla, and honey
10-20-78	059867	Classification: dextrose and levulose
10-16-78	059910	Classification: papyrus

Decisions of the United States Customs Court

Customs Rules Decision

(C.R.D. 79-3)

NADEL & SONS TOY CORP. *v.* UNITED STATES

On Plaintiff's Request for a Written Opinion or a Statement of Findings of Fact and Conclusions of Law

Court Nos. 66/56409, etc.

[Request denied.]

(Dated January 10, 1979)

Mandel & Grunfeld (*Steven P. Florsheim* of counsel) for the plaintiff.
Barbara Allen Babcock, Assistant Attorney General (*Robert H. White*, trial attorney), for the defendant.

285-732—79——9

MALETZ, Judge: In this case, the court on December 18, 1978 denied plaintiff's motion for summary judgment "on the ground that genuine issues of fact exist which require a trial." Plaintiff has now filed a "request" that the court "issue a written opinion or a statement of findings of fact and conclusions of law concerning the court's denial" of its summary judgment notion. For the reasons that follow, the request is denied.

In support of its request, plaintiff argues that by reason of 28 U.S.C. 2638(a) "where, as in the instant matter, a judge of the U.S. Customs Court denies the relief requested in a dispositive motion (such as a motion for summary judgment), the judge is *required* to state the reasons for his decision, either through a written opinion or findings of fact and conclusions of law." [Italic added.] The argument is totally untenable.

28 U.S.C. 2638(a) provides:

> A decision of the judge in a contested case shall be supported by either (1) a statement of findings of fact and conclusions of law, or (2) an opinion stating the reasons and facts upon which the decision is based.

This provision, however, is applicable only to a *final* decision of a judge of this court, i.e., a decision which is appealable as a matter of right. This is evident from the language of 28 U.S.C. 2638(b) which provides that "the decision of the judge is *final and conclusive*, unless a retrial or rehearing is granted * * * or an appeal is made to the Court of Customs and Patent Appeals * * *." [Italic added.] See also H. Rept. 91–1067 (91st Cong., 2d sess., 1970) page 21.

It is to be added that the denial of a motion for summary judgment is of course not a final decision but an interlocutory order, an appeal from which may not be had in the absence of certification. Considered in that light, plaintiff's argument carried to its logical conclusion would lead to the absurdity that any interlocutory order—even an order granting or denying an extension of time for filing a brief—must necessarily be accompanied by an opinion or findings of fact.

The fact of the matter is that whether the court should or should not render an opinion or findings of fact to accompany its denial of a motion for summary judgment is entirly within the discretion of the court. This is demonstrated by rule 8.2(e) of the court which reads as follows:

> (e) *Action Not Fully Adjudicated on Motion.*—If, on motion under this rule, judgment is not rendered upon the whole action and a trial is necessary, the court may ascertain (if it is practicable to do so upon the basis of examining the pleadings and the evidence before it and interrogating counsel) what material facts exist

without genuine controversy and what material facts are actually in good faith controverted. It shall thereupon, if practicable, make an order specifying the facts that appear to be without genuine controversy, and they shall be deemed established for all purposes in the action.

The court may make any other order as may aid in the disposition of the action.[1]

Plaintiff further argues that a court opinion is necessary to apprise it as to what issues require trial. Such information, plaintiff says, is required so as to enable it to bring the case to a conclusion in the most efficient, speedy and inexpensive manner possible. But this argument misconceives the basic function of this—or any other article III court. For it is not the function of an article III court to render advisory opinions; rather, the function of an article III court is to decide cases and controversies.

Finally, plaintiff states that since the Customs Courts Act of 1970, it has been the generally accepted practice of this court to issue opinions upon denial of motions for summary judgment which usually have been published as "Customs Rules Decisions" (CRD) and concludes that the instant matter merits a "CRD". It is quite true that on numerous occasions the court has issued such opinions. However, this has been done as a matter of court discretion; it is not a required procedure.

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[1] Compare rule 56(d) of the Federal Rules of Civil Procedure.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *January 15, 1979.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

ROBERT E. CHASEN,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P79/1	Ford, J. January 8, 1979	Norman G. Jensen, Inc	75-2-00464, etc.	Item 692.35 5.5%	Item 692.30 Free of duty	U.S. v. Norman G. Jensen, Inc. (C.A.D. 1183)	Noyes (Pembina); Grand Portage and International Falls-Ranier (Duluth) Skidder tractors

P79/2	Boe, J. January 8, 1979	EM Laboratories, Inc	77-7-01319	Item 547.55 21%	Item 711.88 11%	E. M. Laboratories, Inc. v. U.S. (C.D. 4744)	New York Thin layer chromatography plates
P79/3	Boe, J. January 8, 1979	EM Laboratories, Inc.	78-3-00407	Item 547.55 21%	Item 711.88 11%	E.M. Laboratories, Inc. v. U.S. (C.D. 4744)	New York Thin layer chromatography plates
P79/4	Maletz, J. January 10, 1979	United China and Glass Co.	76-8-01906	Item 737.40 35%	Item 256.75 8.5%	Wilson's Customs Clearance, Inc. v. U.S. (C.D. 3061)	Philadelphia Bobbing head dogs
P79/5	Ford, J. January 11, 1979	Norman G. Jensen, Inc.	74-9-02442	Item 692.35 5.5%	Item 692.30 Free of duty	U.S. v. Norman G. Jensen, Inc. (C.A.D. 1183)	Grand Portage and International Falls-Ranier (Duluth); Noyes (Pembina) Skidder tractors

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decision

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R79/1	Richardson, J. January 11, 1979	Jaymar Ruby, Inc.	72-4-00848, etc.	Constructed value	Appraised values less $0.36 per yard	H. M. Young Associates, Inc. v. U.S. (C.D. 4388, aff'd C.A.D. 1138)	New York "Cotton Elastic Web", etc.

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs Officers and others concerned.

R. E. CHASEN,
Commissioner of Customs.

In the Matter of
CERTAIN PRECISION RESISTOR CHIPS } Investigation No. 337–TA–63

Notice of Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 15, 1978, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Vishay Intertechnology, Inc., 63 Lincoln Highway, Malvern, Pa. 19355. The complaint alleges that unfair methods of competition and unfair acts exist in the importation of certain precision resistors, precision resistor chips and products utilizing such precision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of the alleged (1) misappropriation by respondents of certain proprietary technological know-how and trade secrets, and (2) incorporation by respondents of the misappropriated proprietary technological know-how and trade secrets in the design and manufacture of the articles.

The complaint alleges that the effect or tendency of these unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests a permanent exclusion of said imports from entry into the United States. Complaint further requests a cease and desist order.

Having considered the complaint, the U.S. International Trade Commission on January 11, 1979, ORDERED THAT—

(1) Pursuant to subsection (b) section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether there is a violation of subsection (a) of this section in the unauthorized importation of certain precision resistors, precision resistor chips and products utilizing such precision resistor chips into the United States, or in their sale by the owner, importer, consignee, or agent of either, by reason of the alleged (1) misappropriation by respondents of certain proprietary technological know-how and trade secrets and (2) incorporation by respondents of the misappropriated proprietary technological know-how and trade secrets in the design and manufacture of these articles, the effect or tendency of which is to destroy of substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties:

(a) The complainant is—

Vishay Intertechnology, Inc.
63 Lincoln Highway
Malvern, Pa. 19355

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint and this notice are to be served:

Societe Francaise De L'Electro-Resistance
115–121, Boulevard de la Madeleine
C6–Nice, France

Resistor Research Corp.
Suite 895
National Press Building
529–14th Street, NW.
Washington, D.C. 20045

Suite 906
1828 L Street, NW.
Washington, D.C. 20036

Suite 110
400 North Washington Street
Falls Church, Va. 22046

(c) Robert D. Bannerman, U.S. International Trade Commission 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge, Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, as amended (19 CFR 210.21). Pursuant to section 201.16(d) and 210.21(a) of the rules, such responses will be considered by the U.S. International Trade Commission if received no later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and will authorize the presiding officer and the U.S. International Trade Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and in this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: January 12, 1979.

KENNETH R. MASON,
Secretary.

CERTAIN FISH AND CERTAIN SHELLFISH FROM CANADA

[303–TA–9]

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on January 9, 1979, that a bounty or grant is being paid with respect to certain fish and certain shellfish imported from Canada, provided for in items 110.1593, 110.1597, 110.4730, 110.4755, 110,4760, 110.4765, 114.4520, and 114.4537 of the Tariff Schedules of the United States (TSUS), which merchandise is accorded duty-free treatment, the U.S. International Trade Commission on January 18, 1979, instituted investigation No. 303–TA–9, under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigation will be held in the Commission's Hearing Room, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t., on Tuesday, February 27, 1979. All persons shall have the right to appear by counsel or in person, to present evidence and be heard. Requests to appear at the public hearing shall be filed with the Secretary of the Commission at his office in Washington, D.C., not later than close of business February 23, 1979.

By order of the Commission.

Issued: January 19, 1979.

KENNETH R. MASON,
Secretary.

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